Taranaki Regional Council

AGENDA
Consents & Regulatory

Tuesday 7 June 2022, 9.30am

Purpose of Consents and Regulatory Committee meeting

This committee attends to all matters in relation to resource consents, compliance monitoring and pollution incidents, biosecurity monitoring and enforcement.

Responsibilities

Consider and make decisions on resource consent applications pursuant to the *Resource Management Act 1991.*

Ensure adequate compliance monitoring of resource use consents and receive decisions on enforcement actions in the event of non-compliance, pursuant to the *Resource Management Act 1991.*

Consider and make decisions on monitoring and enforcement matters associated with plant and animal pest management.

Other matters related to the above responsibilities.

Membership of Consents and Regulatory Committee

Councillor D L Lean (Chairperson)	Councillor C S Williamson (Deputy Chairperson)
Councillor M J Cloke	Councillor M G Davey
Councillor C L Littlewood	Councillor D H McIntyre
Councillor E D Van Der Leden	Councillor D N MacLeod (ex officio)
Councillor M P Joyce (ex officio)	

Representative Members

Ms E Bailey	Mr M Ritai
Mr K Holswich	

Health and Safety Message

Emergency Procedure
In the event of an emergency, please exit through the emergency door in the committee room by the kitchen.

If you require assistance to exit please see a staff member.

Once you reach the bottom of the stairs make your way to the assembly point at the birdcage. Staff will guide you to an alternative route if necessary.

Earthquake
If there is an earthquake - drop, cover and hold where possible. Please remain where you are until further instruction is given.

Consents and Regulatory Committee

07 June 2022 09:30 AM

Whakataka te hau

Karakia to open and close meetings

Whakataka te hau ki te uru	Cease the winds from the west
Whakataka te hau ki tonga	Cease the winds from the south
Kia mākinakina ki uta	Let the breeze blow over the land
Kia mātaratara ki tai	Let the breeze blow over the ocean
Kia hī ake ana te atakura	Let the red-tipped dawn come with a sharpened air
He tio, he huka, he hauhu	A touch of frost, a promise of glorious day
Tūturu o whiti whakamaua kia	Let there be certainty
tina.	Secure it!
Tina!	Draw together! Affirm!
Hui ē! Tāiki ē!	

Date 7 June 2022

Subject: **Confirmation of Minutes - 26 April 2022**

Approved by: A J Matthews, Director - Environment Quality

S J Ruru, Chief Executive

Document: 3072772

Recommendations

That the Consents and Regulatory Committee of the Taranaki Regional Council:

a) takes as read and confirms the minutes and resolutions of the Consents and Regulatory Committee meeting of the Taranaki Regional Council held at the Taranaki Regional Council Boardroom, 47 Cloten Road, Stratford on Tuesday 26 April 2022 at 9.30am

b) notes the recommendations therein were adopted by the Taranaki Regional Council on Tuesday 17 May 2022.

Matters arising

Appendices/Attachments

Document 3041366: Minutes Consents and Regulatory Committee 26 April 2022

Date 26 April 2022, 9.30am

Venue: Taranaki Regional Council Boardroom, 47 Cloten Road, Stratford

Document: 3041366

Members	Councillor	D L Lean	Chair
	Councillor	M J Cloke	*zoom*
	Councillor	M G Davey	
	Councillor	C L Littlewood	
	Councillor	M P Joyce	
	Councillor	D H McIntyre	
	Councillor	C S Williamson	*zoom*
	Councillor	E D Van Der Leden	
Representative Members	Mr	K Holswich	Iwi Representative *zoom*
	Mr	M Ritai	Iwi Representative *zoom*
	Ms	E Bailey	Iwi Representative *zoom*
Attending	Mr	S J Ruru	Chief Executive
	Ms	A J Matthews	Director - Environment Quality
	Mr	A D McLay	Director – Resource Management
	Mr	B Pope	Compliance Manager
	Mrs	J Allen	Consents Manager
	Ms	V McKay	Manager - Environmental Assurance
	Mr	S Tamarapa	Iwi Communications Officer
	Ms	J Mack	Governance Administrator

One member of the media – Deena Coster.

Opening Karakia The meeting opened with a group karakia.

Apologies An apology was were received and sustained from Councillor D N MacLeod.

Notification of Late Items There were no late items.

1. Confirmation of Minutes – 15 March 2022

Resolved

That the Consents and Regulatory Committee of the Taranaki Regional Council:

a) takes as read and confirms the minutes and resolutions of the Consents and Regulatory Committee of the Taranaki Regional Council held at the Taranaki Regional Council, 47 Cloten Road, Stratford on 15 March 2022 at 9.30am.

b) notes the recommendations therein were adopted by the Taranaki Regional Council on Tuesday 5 April 2022.

Littlewood/Van Der Leden

Matters arising

1.1 There were no matters arising.

2. Resource consents issued under delegated authority and applications in progress

2.1 Mrs J Allen, Consents Manager, spoke to the memorandum to advise the Council of consents granted, consents under application and of consent processing actions since the last meeting.

2.2 Additional staff are being recruited to deal with the high number of existing applications and those predicted to be received over the next 3 years.

Recommended

That the Taranaki Regional Council:

a) receives the report, the schedule of resource consents granted and other consent processing actions, made under delegated authority.

Holswich/Williamson

3. Consent Monitoring Annual Reports

3.1 Ms V McKay, Manager – Environmental Assurance, advised the Council of two tailored compliance monitoring reports that have been prepared since the last meeting.

3.2 Councillor D H McIntyre asked for an explanation on the Colson Road groundwater bores. Ms V McKay responded that the closure phase has begun on this landfill so therefore the bores are being relocated and a variation to the consent was required. New Plymouth District Council as consent holder is required maintain a discharge consent going forward, once the landfill is closed.

3.3 Ms E Bailey, Iwi Representative, raised questions around the Colson Road groundwater bores being referred to as compromised and why a flare was installed. Ms V McKay responded the bores were damaged however, noted they were also no longer in a suitable location for the landfill closure plan. Ms E Bailey raised a further question around whether it would be possible to measure greenhouse gas emissions. Ms V McKay responded that the Taranaki Regional Council monitors methane and the consent holder is required to collect information.

Recommended

That the Taranaki Regional Council:

a) receives the two tailored compliance monitoring reports listed in Table 1 and notes the specific recommendations therein.

Littlewood/Van Der Leden

4. Incident, Compliance Monitoring Non-compliances and Enforcement Summary – 23 February 2022 to 5 April 2022

4.1 Mr B Pope, Compliance Manager, spoke to the memorandum to consider and receive the summary of the incidents, compliance monitoring non-compliances and enforcement for the period 23 February 2022 to 5 April 2022.

4.2 Councillor M J Cloke, referred to page 64 of the agenda, alleged crop harvesting discharges – and concerns that on-farm practices associated with cropping are being reported as a complaint. Mr Pope explained all complaints are triaged and appropriate responses made. The Council follows up on all complaints, hence why they are reported in the compliance section of the agenda summary.

4.3 Councillor C L Littlewood commented on the high amounts of burning complaints. Mr Pope explained this is high due to the dry season and time of year.

4.4 Councillor D H McIntyre referred to page 81 on the agenda – noting the timeframe between sampling analysis and reporting to Council. Mr Pope explained that delays had occurred due to COVID and staff changes.

4.5 Councillor E Van Der Leden referred to page 66 on the agenda in regards to non-notified forestry activities in Waverley – and queried whether the other legal activities were environmental in nature. Mr Pope confirmed he believed so.

4.6 It was noted, specifically on page 64 a number of spelling mistakes in Māori names in the report.

4.7 Ms E Bailey, Iwi Representative, referred to Silver Fern and Remediation NZ – noting they are reported multiple times in this report, and questioned if the message is getting through as they seem to be continuing to breach consents. Mr Pope responded that Remediation NZ is currently being investigated and appropriate responses taken under the Council's Enforcement Policy. It was noted that the breaches were not major.

Recommended

That the Taranaki Regional Council:

a) receives this memorandum Incident, Compliance Monitoring Non-compliances and Enforcement Summary – 23 February 2022 to 5 April 2022.

b) receives the summary of the incidents, compliance monitoring non-compliances and enforcement for the period from 23 February 2022 to 5 April 2022, notes the action taken by staff acting under delegated authority and adopts the recommendations therein.

Lean/Cloke

5. Prosecution Sentencing Decision – Herd Properties Limited

5.1 Mr B Pope, Compliance Manager, spoke to the memorandum to update Members on the prosecution of Herd Properties Limited for breaches of the Regional Air Quality Plan for Taranaki. This involved a major discharge of offensive levels of dust from an exposed subdivision site, across a main state highway and into a residential area.

5.2 Councillor D H McIntyre noted the defendant expressed remorse during the prosecution and had promised to undertake mitigation measures. He queried whether these measures were implemented and whether there was recompense to those parties affected? Mr B Pope explained it is under the jurisdiction of the Environment Court.

Recommended

That the Taranaki Regional Council:

a) receives this report and notes the successful outcome of the prosecution of Herd Properties Limited

Lean/D H McIntyre

6. General Business

There being no further business the Committee Chairman, Councillor D L Lean, declared the public meeting of the Consents and Regulatory Committee closed at 9.55am.

Confirmed

Consents and Regulatory Committee Chairperson:_____

D L Lean
7 June 2022

Date: 7 June 2022

Subject: **Resource consents issued under delegated authority and applications in progress**

Approved by: A D McLay, Director - Resource Management

S J Ruru, Chief Executive

Document: 3070697

Purpose

1. The purpose of this memorandum is to advise the Council of consents granted, consents under application and of consent processing actions since the last meeting. This information is summarised in attachments at the end of this report.

Executive summary

2. Memorandum to advise the Council of recent consenting actions made under regional plans and the Resource Management Act 1991, in accordance with Council procedures and delegations.

Recommendation

That the Taranaki Regional Council:

a) receives the schedule of resource consents granted and other consent processing actions, made under delegated authority.

Background

3. The attachments show resource consent applications, certificates of compliance and deemed permitted activities that have been investigated and decisions made by officers of the Taranaki Regional Council. They are activities having less than minor adverse effects on the environment, or having minor effects where affected parties have agreed to the activity. In accordance with sections 87BB, 104 to 108 and 139 of the Resource Management Act 1991, and pursuant to delegated authority to make these decisions, the Chief Executive or the Director—Resource Management, has allowed the consents, certificates of compliance and deemed permitted activities.

4. The exercise of delegations under the Resource Management Act 1991 is reported for Members' information. Under the delegations manual, consent processing actions are to be reported to the Consents and Regulatory Committee.
5. In addition to the details of the activity consented, the information provided identifies the Iwi whose rohe (area of interest) the activity is in. If the activity is in an area of overlapping rohe both Iwi are shown. If the activity is within, adjacent to, or directly affecting a statutory acknowledgement (area of special interest), arising from a Treaty settlement process with the Crown, that is also noted.
6. Also shown, at the request of Iwi members of the Council, is a summary of the engagement with Iwi and Hapū, undertaken by the applicant and the Council during the application process. Other engagement with third parties to the consent process is also shown. The summary shows the highest level of involvement that occurred with each party. For example, a party may have been consulted by the applicant, provided with a copy of the application by the Council, served notice as an affected party, lodged a submission and ultimately agreed with the consent conditions. In that case the summary would show only 'agreed with consent conditions', otherwise reporting becomes very complicated.
7. The attachment titled 'Consent Processing Information' includes the figure 'Consent Applications in Progress' which shows the total number of applications in the consent processing system over the last twelve months. The number of applications for the renewal of resource consents is also shown. The difference between the two is the number of new applications, including applications for a change of consent conditions. New applications take priority over renewal applications. Renewal applications are generally put on hold, with the agreement of the applicant, and processed when staff resources allow. A consent holder can continue to operate under a consent that is subject to renewal. The above approach is pragmatic and ensures there are no regulatory impediments to new activities requiring authorisation.
8. The attachment also includes:
    - Applications in progress table - the number of applications in progress at the end of each month (broken down into total applications and the number of renewals in progress) for this year and the previous two years
    - Potential hearings table outlining the status of applications where a hearing is anticipated and the decision maker(s) (e.g. a hearing panel) has been appointed
    - Consents issued table - the number of consents issued at the end of each month for this year and the previous two years
    - Breakdown of consents issued. This is the number of consents issued broken down by purpose – new, renewals, changes or review
    - Types of consents issued, further broken down into notification types – non-notified, limited notified or public notified
    - Number of times that the public and iwi were involved in an application process for the year so far
    - Application processing time extensions compared to the previous years
    - Consent type process shows the notification type including applications submitted on and the pre-hearing resolution numbers
    - Applications that have been returned because they are incomplete.

Decision-making considerations

9. Part 6 (Planning, decision-making and accountability) of the *Local Government Act 2002* has been considered and documented in the preparation of this agenda item. The recommendations made in this item comply with the decision-making obligations of the *Act*.

Financial considerations—LTP/Annual Plan

10. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

Policy considerations

11. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

Iwi considerations

12. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan. Similarly, iwi involvement in adopted work programmes has been recognised in the preparation of this memorandum.

Legal considerations

13. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.

Appendices/Attachments

Document 3070653: List of non-notified consents

Document 3070684: Schedule of non-notified consents

Document 3071066: Consents processing charts for Agenda

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

Coastal Permit						
Consent	**Holder**	**Subtype**	**Industry Primary**	**Industry Secondary**	**Purpose Primary**	**Activity Purpose**
R2/11013-1.0	NZ Surveys 2020 Limited	Discharge to water (CMA)	Energy	Energy Services	Seismic survey	New
Discharge Permit						
Consent	**Holder**	**Subtype**	**Industry Primary**	**Industry Secondary**	**Purpose Primary**	**Activity Purpose**
R2/0712-4.1	Mangatui Limited	Water - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
R2/1527-4.0	WB Scott Family Trust	Land - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
R2/1834-4.0	Estate Charles Bailey	Water - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
R2/2508-3.0	MD Gordon Farms Limited	Water - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
R2/2622-3.0	Steele & Sons Limited	Water - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
R2/3005-3.0	Graeme Keith Foreman	Land - Animal Waste	Agriculture	Farming - Goat	Effluent disposal	Replace
R2/3716-3.1	Fabish Bros Farms Limited	Land/Water - Animal Waste	Agriculture	Farming - Dairy	Effluent disposal	Replace
R2/7089-1.2	Ferndene Group Limited	Land - Solid Waste	Mining Extraction (excl. hydrocarbon)	Quarry	Cleanfill	Change
Land Use Consent						
Consent	**Holder**	**Subtype**	**Industry Primary**	**Industry Secondary**	**Purpose Primary**	**Activity Purpose**
R2/10836-1.1	Waka Kotahi NZ Transport Agency	Structure - Culvert	Central Government	Transport	Roading	Change
R2/10995-1.0	Oliver Family Trust	Structure - Culvert	Agriculture	Farming - Dairy	Access	New
R2/10996-1.0	First Gas Limited	Earthworks	Energy	Gas Supply		New
R2/10997-1.0	Neil Robert & Gillian Anne Maulder	Structure - Culvert	Agriculture	Farming - Dairy	Access	New
R2/11001-1.0	First Gas Limited	Structure - Other	Energy	Gas Supply		New
R2/11014-1.0	Hait Contracting Limited	Forestry – Harvesting	Forestry		Forest Harvesting	New

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

R2/0712-4.1
Mangatui Limited

Commencement Date: 04 May 2022
Expiry Date: 01 Dec 2045
Review Dates: Jun 2027, Jun 2033, Jun 2039
Activity Class: Controlled

Location: 611 Bristol Road, Waitui

Application Purpose: Replace

To discharge farm dairy effluent onto land, and until 1 December 2022 after treatment in an oxidation pond system, into an unnamed tributary of the Manganui River

Rohe:

Ngāti Maru

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

Te Runanga o Ngāti Maru (Taranaki) Trust	No return correspondence was received.
Te Kotahitanga o Te Atiawa Trust	Response received

Comments from Te Kotahitanga

- *discharge to land is generally the preferred discharge method; however, this is subject to the discharge being to appropriate soil types, avoiding over saturation and contamination of the soil, as well as regular monitoring being undertaken to confirm this.*
- *Pukerangiora Hapū and Te Kotahitanga have not been engaged to inform the application.*

For the Taranaki Regional Council to give consideration to the comments provided, Pukerangiora Hapū and Te Kotahitanga o Te Atiawa recommend:

1. *Further information is requested in accordance with the section 92 of the Resource Management Act 1991 processes.*
2. *Pukerangiora Hapū and Te Kotahitanga o Te Atiawa are identified as affected parties in accordance with the section 95 of the Resource Management Act 1991 processes.*

Response and considerations during processing of application

Thank you for your comment on this application for a farm dairy discharge. The Council will have regard to it when making decisions on the application.
Almost every dairy discharge application is a renewal and a controlled activity. Controlled activity applications must be granted.
You will be aware that, with few exceptions, when a dairy consent involving a discharge to water is renewed the Council only allows the water discharge to continue for about two years, then the only discharge allowed is to land. Other applications are to change consent conditions. These are discretionary activities but usually result in a discharge with less environmental effect.
The Council will ensure that the information provided with this application is adequate, and also determine any adversely affected persons. However I expect that nobody is adversely affected and the consent will be issued non-notified. It will subject to the conditions reasonably necessary to avoid or mitigate adverse environmental effects in accordance with the Regional Freshwater Plan for Taranaki. The Council has previously provided you with a copy of these conditions.

#3070684-v1

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

R2/10836-1.1

Waka Kotahi NZ Transport Agency

Commencement Date: 20 Apr 2022

Expiry Date: 01 Jun 2040

Review Dates: Jun 2028, Jun 2034

Activity Class: Discretionary

Location: Road reserve, East Road, SH43, Douglas

Application Purpose: Change

To undertake maintenance on an existing culvert in an unnamed tributary of the Toko Stream, including associated disturbance of the stream bed

Change of consent conditions to allow for a reduction in pipe size

Rohe:

Ngāti Maru

Ngāti Ruanui

Engagement or consultation:

Te Runanga o Ngāti Maru (Taranaki) Trust	No return correspondence was received.
Te Runanga O Ngāti Ruanui Trust	No return correspondence was received.

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

R2/10995-1.0
Oliver Family Trust

Commencement Date: 11 Apr 2022
Expiry Date: 01 Jun 2041
Review Dates: Jun 2029, Jun 2035
Activity Class: Discretionary

Location: 231 Upper Stuart Road, Eltham

Application Purpose: New

To install a culvert in an unnamed tributary of the Waingongoro River, including associated disturbance of the stream bed

Rohe:

Ngāruahine (Statutory Acknowledgement)

Engagement or consultation:

Te Korowai O Ngāruahine Trust — Response received

Comments from Te Korowai

- *Te Korowai opposes the installation of any new culverts which restrict indigenous fish passage. It is our expectation that the applicant follows the advice provided by TRC to ensure fish passage is maintained or enhanced as a result of the culvert being installed.*
- *Te Korowai requests that the applicant engage Hapū representatives to undertake cultural monitoring during the diversion of the stream to install the culvert. This is specifically for the building of the coffer dam and installation of the culvert and any earthworks or land disturbance relating to potential adverse impacts on the stream.*
- *The applicant may also wish to seek advice from Fish and Game NZ to ensure the culvert meets the requirements of the National Policy Statement for Freshwater 2020. This includes the application showing how the culvert will:*

- *Improve the passage of desirable fish passage and their habitat; and*
- *Prevent the passage of undesired fish species.*

Response and considerations during processing of application

In relation to Wai Māori Policy 5.8 and 5.10 to ensure the fish movements and course of awa occurs as naturally as possible a conditions is recommended to ensure that the culvert provides for the same passage of fish upstream and downstream as would exist without the culvert. Additional conditions include laying the culvert parallel to the slope of the bed of the river or connected area and placing the invert of the culvert below the existing streambed by 500 mm of the culvert dimension, so that it fills with bed material and simulates the natural bed.

A request for cultural monitoring was received from Te Korowai o Ngāruahine Trust which was presented to the applicant by TRC, although the applicant did not engage this monitor, they were presented with and positively read through the comments from Te Korowai o Ngāruahine Trust and through Te Uru Taiao o Ngāruahine, which they commented to provide them with an overview of Ngāruahine cultural values, tikanga, interests and policies.

The Regional Fresh Water Plan for Taranaki supports the installation of a culvert or bridge if adverse effects, such as those resulting from restricted fish passage, interruption to fish spawning and migration, and flooding are avoided or mitigated. These requirements can be met by including reasonable conditions on this consent.

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

R2/10996-1.0
First Gas Limited

Commencement Date: 14 Apr 2022
Expiry Date: 01 Jun 2024
Review Dates:
Activity Class: Restricted discretionary

Location: Kapuni-100 pipeline, Ahipaipa Road & Skeet Road, Kapuni

Application Purpose: New

To undertake earthworks within 10 metres of a wetland for the purpose of maintaining a specified infrastructure

Rohe:

Ngāruahine (Statutory Acknowledgement)

Engagement or consultation:

Te Korowai O Ngāruahine Trust	No return correspondence was received.
Te Korowai O Ngāruahine Trust	Consulted by applicant

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

R2/10997-1.0

Neil Robert & Gillian Anne Maulder

Commencement Date: 24 May 2022

Expiry Date: 01 Jun 2038

Review Dates: Jun 2026, Jun 2032

Activity Class: Discretionary

Location: 35 Victoria Road, Omata

Application Purpose: New

To install and use a culvert in the Oraukawa Stream, including associated disturbance of the stream bed

Rohe:

Taranaki (Statutory Acknowledgement)

Engagement or consultation:

Te Kahui o Taranaki Trust — Response received

Comments from Te Kāhui

Te Kāhui opposes culverts that create barriers to native fish passage, contribute to sedimentation and alter the natural flows of the waterway to the detriment of endemic species within that waterway. Te Kāhui also opposes activities that result in degradation of the mouri of waterbodies.

If the Maulder's application to upgrade/replace the existing culvert leads to better fish passage and improved water quality and stream health for the Oraukawa, I would support the granting of this consent. Te Kāhui advocates for additional riparian planting along the waterbody and near the culvert to assist in the restoration of the awa and to aid in stormwater management/reduce erosion damage.

They also requested a copy of the issued consent.

Response and considerations during processing of application

To understand the cultural effects of the proposal and considering the scale and significance of the application, Council has assessed the proposed activity against the environmental management plan for Taranaki Iwi, Taiao, Taiora.

It has been considered that the application and the proposed conditions will ensure that activity does not contravene the Taranaki Iwi Environmental Management Plan, Taiao, Taiora

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

R2/11001-1.0

First Gas Limited

Commencement Date: 14 Apr 2022

Expiry Date: 01 Jun 2024

Review Dates:

Activity Class: Restricted discretionary

Location: Kapuni-100 pipeline, Ahipaipa Road & Skeet Road, Kapuni

Application Purpose: New

To maintain the Kapuni-100 gas line under an unnamed tributary of the Kapuni Stream

Rohe:

Ngāruahine (Statutory Acknowledgement)

Engagement or consultation:

Te Korowai O Ngāruahine Trust	No return correspondence was received.
Te Korowai O Ngāruahine Trust	Consulted by applicant

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

R2/11013-1.0

NZ Surveys 2020 Limited

Commencement Date: 29 Apr 2022

Expiry Date: 01 Aug 2022

Review Dates:

Activity Class: Controlled

Location: Offshore between Bell Block & Waitara

Application Purpose: New

To discharge energy for the purpose of seismic surveying into water in the Coastal Marine Area

Rohe:

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

Department of Conservation	Consulted by applicant
Otaraua Hapū Trust	Discussions with Council
Puketapu Hapū	Consulted by applicant
Te Kotahitanga o Te Atiawa Trust	Consulted by applicant
Te Kotahitanga o Te Atiawa Trust	Response received

Comments from Te Kotahitanga and Response and considerations during processing of application by Council

- *Te Kotahitanga provided comment to Council regarding the application. In summary they commented that the applicant had been engaging with some of Te Atiawa hapū, however, not all who have an interest in the application site and proposed activity.*
- *Subsequently, Council sent the applicant a request for further information requesting they provide an assessment of effects from the proposal, including all Hapū (particularly Otaraua who had been missed from the engagement process), including but not limiting to engagement with Otaraua.*
- *Te Kotahitanga sent Council an email raising concerns relating to the applicants request for further information response, including but not limited to the following:*
  - *The overstatement from the applicant of their engagement with the relevant hapū;*
  - *Discrepancies between the actual engagement and the response outlined by the applicant; and*
  - *Falseness in the maps provided in the response which don't accurately reflect the Otaraua Hapū rohe.*
- *Te Kotahitanga sent Council an email requesting a copy of the decision documents and also forward through an email from an Otaraua Hapū representative, which raised further concerns regarding engagement undertaken by the applicant to date and the applicant's request for a response to large documents in a very short time.*
- *In response, a hui was held on Sunday 24 April which included representatives from Greymouth Petroleum, Council, Pukerangiora Hapū, Otaraua Hapū to address the above information. A number of important matters were considered and it was agreed Council officers would develop special consent conditions to address these matters and circulate them to all parties.*
- *Council sent Otaraua Hapū and Te Kotahitanga o Te Atiawa a set of conditions reflecting discussions held at the 24 April hui. The following week, several discussion occurred between all parties to resolve matters and a reasonable level of agreement was reached. The timeframes for processing the application under the RMA were extended by the applicant to allow this important process to occur.*

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

R2/11014-1.0
Hait Contracting Limited

Commencement Date: 22 Apr 2022
Expiry Date: 01 Jun 2024
Review Dates:
Activity Class: Controlled

Location: Kohangamoa Road, Urenui
To harvest a plantation forest

Application Purpose: New

Rohe:
Ngāti Mutunga (Statutory Acknowledgement)

Engagement or consultation:

Te Runanga o Ngāti Mutunga	Consulted by applicant
Te Runanga o Ngāti Mutunga	Response received

Comments from Ngāti Mutunga

- *would like more detail about steps intended to be taken to protect Kiwi – the forests surrounding the logging site have pest control measures in place for kiwi protection*
- *Protection of Kohangamoa stream from sediment: - the application lacks details in how it intends to prevent sediment from entering the Kohangamoa stream.*

Response and considerations during processing of application

- *Council referred the applicant to contact Ngāti Mutunga to understand their cultural views of the proposal and how they could mitigate any identified effects. The applicant engaged with Ngāti Mutunga and they have agreed on protocol for when the applicant encounters kiwi while undertaking works.*

- *The applicant provided information to Ngāti Mutunga regarding their proposal and how the applicant will mitigate adverse effects relating to sedimentation. Ngāti Mutunga supports the application.*

- *Council took this into consideration and considered that the applicant had demonstrated an appropriate level of engagement with Ngāti Mutunga*

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

R2/1527-4.0
WB Scott Family Trust

Commencement Date: 03 May 2022
Expiry Date: 01 Dec 2048
Review Dates: Jun 2024, Jun 2030, Jun 2036, Jun 2042
Activity Class: Controlled

Location: 2383 Eltham Road, Te Kiri
Application Purpose: Replace

To discharge farm dairy effluent onto land

Rohe:
Ngāruahine (Statutory Acknowledgement)

Engagement or consultation:

Te Korowai O Ngāruahine Trust	Response received

Comments from Te Korowai

- *Te Korowai opposes the granting of this consent for a dual discharge to water and then to land. This is because there is no incentive for the applicant to provide adequate effluent storage and discharge directly to land.*
- *The application fails to meet bottom lines for freshwater identified in Te Uru Taiao o Ngāruahine. Te Korowai advocates for the applicant to move solely to land discharge.*

Response and considerations during processing of application

- *As Te Korowai had indicated, the applicant had originally proposed a dual discharge both to land and to water. However, the Compliance Team Leader-Primary Industries worked alongside the applicant who subsequently amended their proposal so the discharge would be to land only.*
- *This amended proposal is line with Te Korowai's recommendations*
- *Council relayed this information to Te Korowai.*

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

R2/1834-4.0

Estate Charles Bailey

Commencement Date: 19 May 2022

Expiry Date: 01 Dec 2045

Review Dates: Jun 2027, Jun 2033, Jun 2039

Activity Class: Controlled

Location: 85 Pennington Road, Brixton

Application Purpose: Replace

To discharge farm dairy effluent onto land, and until 1 December 2022 after treatment in an oxidation pond system, into an unnamed tributary of Lake Cowley

Rohe:

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

Te Kotahitanga o Te Atiawa Trust — Response received

Comments from Te Kotahitanga

- *We require consented discharges to land to be managed and monitored appropriately.*
- *The Part 2 of the Resource Management Act 1991 assessment provided with the application is considered to be deficient – we consider Sections 6(e), 7(a) and 8 to be most relevant in this case.*
- *No assessment against the relevant provisions of the National Policy Statement for Freshwater 2020, the Regional Policy Statement for Taranaki, and the Regional Freshwater is provided in the application. Pukerangiora and Te Kotahitanga o Te Atiawa consider these higher order planning documents to be relevant to the proposal.*
- *Based on the information contained in the application, the discharge to land is generally consistent with the objectives and policies set out in the Te Tai Awhi Nuku Inland and Coastal Whenua for intensive farming and discharges to land*

To ensure the Taranaki Regional Council provide for the relationship of Pukerangiora Hapū and Te Kotahitanga o Te Atiawa, the following is recommended:

1. *Further information shall be requested in accordance with the Section 92 of the Resource Management Act 1991 processes;*
2. *Pukerangiora hapū and Te Kotahitanga o Te Atiawa Trust are identified as affected parties in accordance with the Section 95E of the Resource Management Act 1991 processes;*
3. *In the event TRC is minded to grant resource consent, conditions of consent (in accordance with sections 104 and 108 of the Resource Management Act 1991 processes) shall be applied in line with the response provided above.*

Response and considerations during processing of application

The National Policy Statement for Freshwater Management (NPS-FM).
The NPS-FM contains a hierarchy of obligations (as expressed in the objective of the NPS-FM) that the Council must have regard to in its assessment of the effects of a proposed activity for which resource consent is sought. This means as part of its assessment of an application, the Council must consider whether a proposed activity will:

- *first, prioritise the health and well-being of a particular water body/freshwater ecosystem*
- *second, the health and needs of people and*
- *third, the ability of people and communities to provide for their social, economic and cultural well-being*

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

As you are aware, almost every application for a farming dairy effluent consent received is for a replacement of an existing activity, and a controlled activity under Rule 36 of the Regional Freshwater Plan for Taranaki. The Council must have regard to the NPS-FM, the RPS as well as the RFWP when considering a resource consent application. If an activity is described as a controlled activity, Council must grant a resource consent, and the power to impose conditions on the consent is restricted to the matters over which control is reserved (sections 87A and 104A of the Resource Management Act). Rules 35 and 36 of the RFWP do not include any matters of control that expressly allow for the consideration of matters such as those expressed in the NPS-FM objective. Given that the Council can only consider policies that relate to the matters over which the Council has reserved control through the plan itself, the Council is unable to take into account matters that fall outside this scope.

You will be aware that, with few exceptions, when a dairy consent involving a discharge to water is replaced, the Council only allows the water discharge to continue until 1 December 2022, then the only discharge allowed is to land.

R2/2508-3.0

MD Gordon Farms Limited

Commencement Date: 28 Apr 2022

Expiry Date: 01 Dec 2027

Review Dates: Jun 2023, Jun 2025

Activity Class: Controlled

Location: 712 Durham Road Upper, Norfolk

Application Purpose: Replace

To discharge farm dairy effluent:

- onto land and, after treatment in an oxidation pond system, into the Ngatoronui Stream if the land disposal area is unsuitable for effluent disposal; and,
- until 1 December 2022 to discharge farm dairy effluent after treatment in an oxidation pond system, into the Ngatoronui Stream

Rohe:

Taranaki (Statutory Acknowledgement)

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

Te Kahui o Taranaki Trust	No return correspondence was received.
Te Kotahitanga o Te Atiawa Trust	No return correspondence was received.

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

R2/2622-3.0

Steele & Sons Limited

Commencement Date: 28 Apr 2022

Expiry Date: 01 Dec 2045

Review Dates: Jun 2027, Jun 2033, Jun 2039

Activity Class: Controlled

Location: 2442 Mountain Road, Tariki

Application Purpose: Replace

To discharge farm dairy effluent onto land, and until 1 December 2022 after treatment in an oxidation pond system and constructed drain, into an unnamed tributary of the Mangatengehu Stream

Rohe:

Ngāti Ruanui

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

Te Runanga O Ngāti Ruanui Trust	No return correspondence was received.
Te Kotahitanga o Te Atiawa Trust	Response received

Comments from Te Kotahitanga

- *The proposed discharge to land is generally in accordance with the objectives and policies set out in the Te Kotahitanga o Te Atiawa EMP, Te Tai Awhi Nuku Inland and Coastal Whenua for intensive farming and discharges to land (Ob. TTAN1.1, 1.2, 1.8 Ob. TTAN9.1, Pol. TTAN9.1, 9.3, 9.4).*
- *No assessment under the Regional Freshwater Plan for Taranaki, the Regional Policy Statement for Taranaki and the National Policy Statement for Freshwater Management (2020). The higher order planning documents are considered to be relevant to the proposals.*
- *No assessment of the Te Atiawa iwi environmental management plan Tai Whenua, Tai Tangata, Tai Ao.*

For the Taranaki Regional Council to give consideration to the comments above, Pukerangiora Hapū and Te Kotahitanga o Te Atiawa recommend:

1. *Further information is requested in accordance with section 92 of the Resource Management Act 1991 processes.*
2. *Pukerangiora Hapū and Te Kotahitanga o Te Atiawa are identified as affected parties in accordance with section 95 of the Resource Management Act 1991 processes.*
3. *Refuse the applications in accordance with section 104 of the Resource Management Act 1991 processes.*

Response and considerations during processing of application

The National Policy Statement for Freshwater Management (NPS-FM).

The NPS-FM contains a hierarchy of obligations (as expressed in the objective of the NPS-FM) that the Council must have regard to in its assessment of the effects of a proposed activity for which resource consent is sought. This means as part of its assessment of an application, the Council must consider whether a proposed activity will:

- *first, prioritise the health and well-being of a particular water body/freshwater ecosystem*
- *second, the health and needs of people and*
- *third, the ability of people and communities to provide for their social, economic and cultural well-being*

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

As you are aware, almost every application for a farming dairy effluent consent received is for a replacement of an existing activity, and a controlled activity under Rule 36 of the Regional Freshwater Plan for Taranaki. The Council must have regard to the NPS-FM, the RPS as well as the RFWP when considering a resource consent application. If an activity is described as a controlled activity, Council must grant a resource consent, and the power to impose conditions on the consent is restricted to the matters over which control is reserved (sections 87A and 104A of the Resource Management Act). Rules 35 and 36 of the RFWP do not include any matters of control that expressly allow for the consideration of matters such as those expressed in the NPS-FM objective. Given that the Council can only consider policies that relate to the matters over which the Council has reserved control through the plan itself, the Council is unable to take into account matters that fall outside this scope.

You will be aware that, with few exceptions, when a dairy consent involving a discharge to water is replaced, the Council only allows the water discharge to continue until 1 December 2022, then the only discharge allowed is to land.

R2/3005-3.0

Graeme Keith Foreman

Commencement Date: 19 May 2022

Expiry Date: 01 Dec 2045

Review Dates: Jun 2027, Jun 2033, Jun 2039

Activity Class: Controlled

Location: 36 Inland North Road, Tikorangi

Application Purpose: Replace

To discharge goat farm dairy effluent onto land

Rohe:

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

Te Kotahitanga o Te Atiawa Trust — Response received

Comments from Te Kotahitanga

- *Otaraua Hapū, Ngāti Rahiri Hapū and Te Kotahitanga o Te Atiawa Trust shall be identified as affected parties in accordance with Section 95E of the Resource Management Act 1991*
- *No details of the existing consent have been provided, and the application lacks sufficient information, which makes an informed review difficult. No assessment is provided against the relevant provisions of Tai Whenua, Tai Tangata, Tai Ao, Sections 6(e), 7(a) and 8 of the Resource Management Act 1991 are considered relevant to the Part II assessment, and no assessment against the relevant provisions of the National Policy Statement for Freshwater 2020 is provided*
- *Discharges to land can have adverse effects on soil health and water quality.*
- *We require regular monitoring of soil health, groundwater, and surface water to be undertaken.*

Recommendations:

- *Otaraua Hapū, Ngāti Rahiri Hapū and Te Kotahitanga o Te Atiawa Trust shall be identified as affected parties in accordance with Section 95E of the Resource Management Act 1991*
- *Conditions of consent shall be applied in accordance with Section 108 of the Resource Management Act 1991 in line with the response provided above – specifically in relation to monitoring, discharges to appropriate soil types and topographies, and the avoidance of over-saturation and over-contamination which are within Council's 'limit of control' under rule 35 of the Regional Freshwater Plan*

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

Response and considerations during processing of application

The National Policy Statement for Freshwater Management (NPS-FM).

The NPS-FM contains a hierarchy of obligations (as expressed in the objective of the NPS-FM) that the Council must have regard to in its assessment of the effects of a proposed activity for which resource consent is sought. This means as part of its assessment of an application, the Council must consider whether a proposed activity will:

- *first, prioritise the health and well-being of a particular water body/freshwater ecosystem*
- *second, the health and needs of people and*
- *third, the ability of people and communities to provide for their social, economic and cultural well-being*

As you are aware, almost every application for a farming dairy effluent consent received is for a replacement of an existing activity, and a controlled activity under Rule 36 of the Regional Freshwater Plan for Taranaki. The Council must have regard to the NPS-FM, the RPS as well as the RFWP when considering a resource consent application. If an activity is described as a controlled activity, Council must grant a resource consent, and the power to impose conditions on the consent is restricted to the matters over which control is reserved (sections 87A and 104A of the Resource Management Act). Rules 35 and 36 of the RFWP do not include any matters of control that expressly allow for the consideration of matters such as those expressed in the NPS-FM objective. Given that the Council can only consider policies that relate to the matters over which the Council has reserved control through the plan itself, the Council is unable to take into account matters that fall outside this scope.

You will be aware that, with few exceptions, when a dairy consent involving a discharge to water is replaced, the Council only allows the water discharge to continue until 1 December 2022, then the only discharge allowed is to land.

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

R2/3716-3.1

Fabish Bros Farms Limited

Commencement Date: 21 Apr 2022

Expiry Date: 01 Dec 2028

Review Dates: Jun 2023, Jun 2025

Activity Class: Controlled

Location: 217 Bedford Road South, Norfolk

Application Purpose: Replace

To discharge farm dairy effluent onto land and after treatment in an oxidation pond system into an unnamed tributary of the Mangamawhete Stream if the land disposal area is unsuitable for effluent disposal

Rohe:

Ngāti Ruanui

Taranaki (Statutory Acknowledgement)

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

Te Kahui o Taranaki Trust	No return correspondence has been received.
Te Runanga O Ngāti Ruanui Trust	No return correspondence has been received.
Te Kotahitanga o Te Atiawa Trust	Response received

Comments from Te Kotahitanga

- *There are significant adverse cultural effects associated with the discharge of effluent to water which are more than minor.*
- *Provision should be made for mana whenua to participate in the monitoring of the consent.*
- *Point source discharges and the use of water as a receiving environment should be avoided.*
- *The proposal to discharge effluent to water is inconsistent with the overall objective and Policy 1 of the NPS-FW; no assessment against relevant Part II matters including Sections 6(e), 7(a) and 8 of the Act is provided; no assessment against relevant objectives and policies of the RPS or the RFWP is provided; and no assessment against Tai Whenua, Tai Tangata, Tai Ao*

Recommendations:

- *Pukerangiora Hapū and Te Kotahitanga o Te Atiawa Trust shall be identified as affected parties in accordance with Section 95E of the Resource Management Act 1991 and limited notified of the application in accordance with Section 95B of the Act.*
- *Council should be mindful to decline the resource consent; any consent granted shall provide for the discharge to land only*

Response and considerations during processing of application

The National Policy Statement for Freshwater Management (NPS-FM)

The NPS-FM contains a hierarchy of obligations (as expressed in the objective of the NPS-FM) that the Council must have regard to in its assessment of the effects of a proposed activity for which resource consent is sought. This means as part of its assessment of an application, the Council must consider whether a proposed activity will

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

- *first, prioritise the health and well-being of a particular water body/freshwater ecosystem*
- *second, the health and needs of people and*
- *third, the ability of people and communities to provide for their social, economic and cultural well-being.*

Similarly, the Council must have regard to the objectives and policies of the Regional Policy Statement for Taranaki (RPS) and the Regional Freshwater Plan for Taranaki (RFWP). The situation is more challenging in this case where the activity is a controlled activity.

As you are aware, almost every application for a farming dairy effluent consent received is for a replacement of an existing activity, and a controlled activity under Rule 36 of the Regional Freshwater Plan for Taranaki. The Council must have regard to the NPS-FM, the RPS as well as the RFWP when considering a resource consent application. If an activity is described as a controlled activity, Council must grant a resource consent, and the power to impose conditions on the consent is restricted to the matters over which control is reserved (sections 87A and 104A of the Resource Management Act). Rules 35 and 36 of the RFWP do not include any matters of control that expressly allow for the consideration of matters such as those expressed in the NPS-FM objective. Given that the Council can only consider policies that relate to the matters over which the Council has reserved control through the plan itself, the Council is unable to take into account matters that fall outside this scope.

You will be aware that, with few exceptions, when a dairy consent involving a discharge to water is replaced, the Council only allows the water discharge to continue until 1 December 2022, then the only discharge allowed is to land.

In terms of the notification assessment and when deciding whether a person is an affected person, the Council is limited in terms of matters that it can take into account when determining an application for a controlled activity.

Thank you again for your response, and our Council officers would be happy to discuss this in further detail if you wish.

Non-notified authorisations issued by the Taranaki Regional Council between 08 Apr 2022 and 25 May 2022

R2/7089-1.2
Ferndene Group Limited

Commencement Date: 29 Apr 2022
Expiry Date: 01 Jun 2026
Review Dates:
Activity Class: Discretionary

Location: 1053 Upland Road, Egmont Village
Application Purpose: Change

To discharge cleanfill onto and into land for quarry reinstatement purposes

Change of consent conditions to provide for the discharge of water treatment plant sludge from South Taranaki District Council

Rohe:

Te Atiawa (Statutory Acknowledgement)

Engagement or consultation:

Te Kotahitanga o Te Atiawa Trust — Response received

Comments from Te Kotahitanga

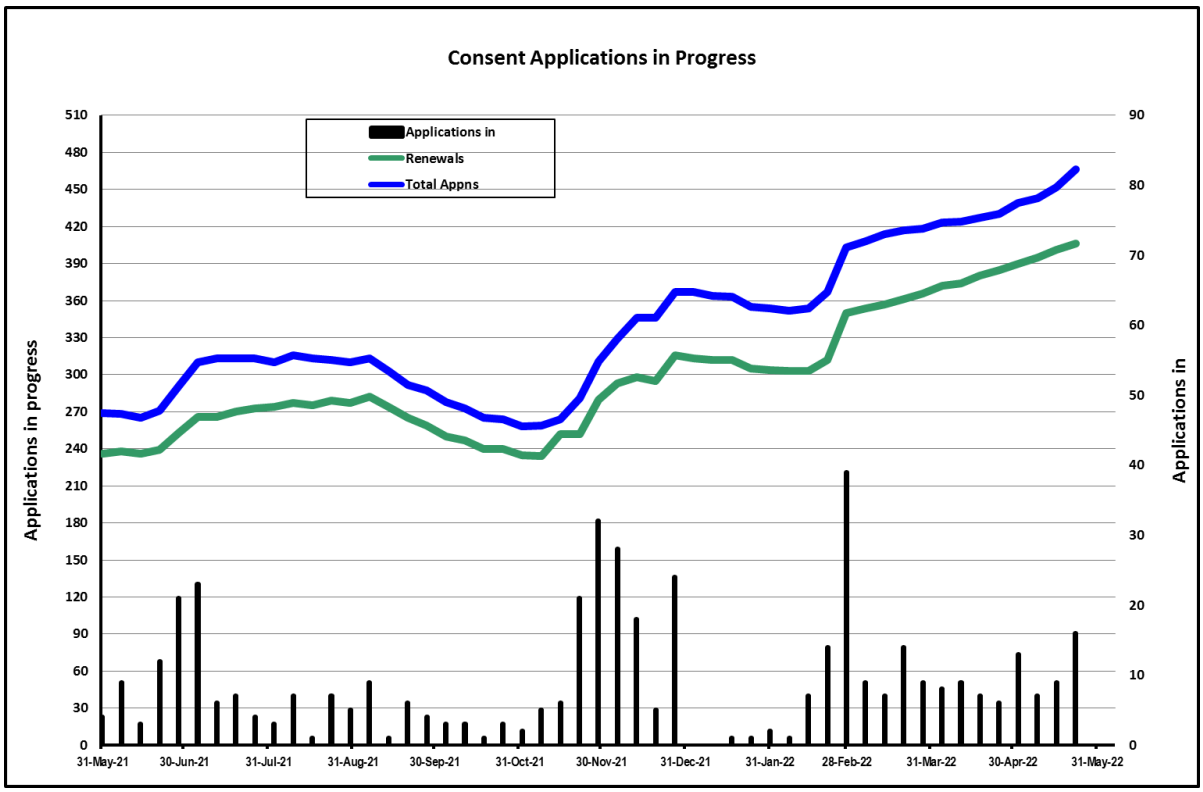
Te Kotahitanga o Te Atiawa provided comment on 11 March 2022 expressing concern that the proposed change of conditions would result in a change in the scale and nature, impacting on the mauri of the soil and te taiao. This, due to the disposal of sludge as part of the proposed activity would be coming from outside the Te Atiawa rohe.

Response and considerations during processing of application

As a result, further information was requested from the applicant. This further information was provided to Te Kotahitanga on 19 April, and a response was received on 29 April, after having reviewed the further information received. Te Kotahitanga confirmed that based on the information provided and through the phone conversations had with Council, there were no concerns with the proposal.

Consent Processing Information

1) Applications in progress



2) Month Ending

	July		Aug		Sept		Oct		Nov		Dec		Jan		Feb		Mar		Apr		May		Jun	
	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R	Total	R
2021/2022	310	274	310	277	276	246	258	235	311	280	367	313	354	304	403	350	423	372	439	390	466	406		
2020/2021	196	157	187	157	221	182	221	180	263	219	257	216	262	217	300	229	297	259	293	258	271	238	312	271
2019/2020	136	107	126	101	136	103	129	101	130	101	136	103	135	100	152	130	139	119	142	119	165	136	205	160

R = Renewals
Note: May part month

3) Potential Hearings

Nil

Doc# 3071066--v1

4) Consents Processed (running totals)

	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	April	May	June
2021/2022	17	37	87	114	123	136	152	162	184	202		
2020-2021	20	38	53	75	94	116	131	154	178	209	247	269
2019-2020	26	51	72	102	148	162	188	218	239	245	248	263

5) Breakdown of consents processed

	New	Renewal	Change	Review	Totals
2021-2022 Total (to end of April)	**49**	**131**	**16**	**6**	**202**
2021-2021 Total	71	148	39	11	**269**
2019-2020 Total	81	138	44	0	**263**

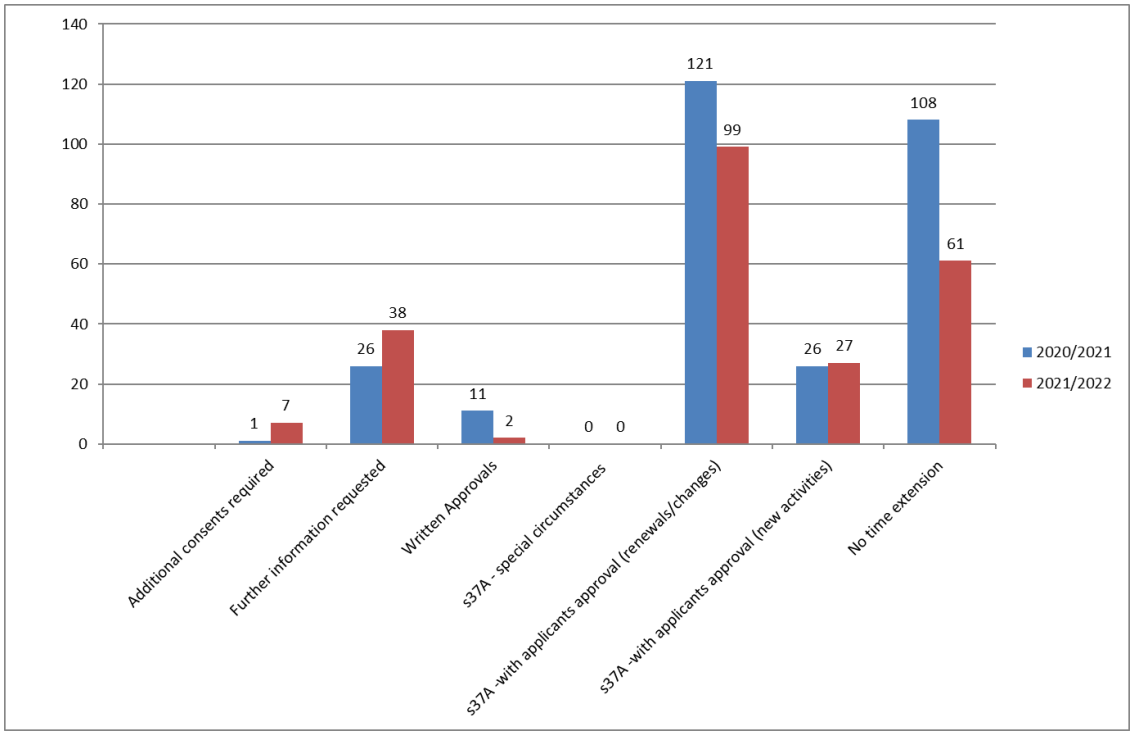
6) Types of consents issued - year to date comparison

	Agricultural	Central/Local Government	Energy	Forestry	Other	Total publically notified		Agricultural	Central/Local Government	Energy	Forestry	Other	Total Limited Notified		Agricultural	Central/Local Government	Energy	Forestry	Other	Total Non-notified		Grand Total
	Publically Notified					%		Limited					%		Non Notified					%		
July 2019 to June 2020	0	1	0	0	0	**0.4%**	**1**	1	4	0	0	2	**2.7%**	**7**	147	30	28	8	42	**97.0%**	**255**	**263**
July 2020 to 30 June 2021	0	0	0	0	2	**0.7%**	**2**	0	1	0	0	0	**0.4%**	**1**	146	20	44	6	50	**98.9%**	**266**	**269**
July 2021 to April 2022	**0**	**0**	**8**	**0**	**0**	**4.0%**	**8**	**0**	**0**	**0**	**0**	**0**	**0.0%**	**0**	**123**	**26**	**18**	**3**	**24**	**96.0%**	**194**	**202**

7) Involvement with third parties for applications processed year to date

	Consultation/ Involved (number of parties)	Number of Affected Party Approvals (written)	Totals
Councils	**1**	**1**	**2**
DOC	**15**	**0**	**15**
Environmental/Recreational Groups	**21**	**0**	**21**
Fish & Game	**14**	**0**	**14**
Individuals/Neighbours/Landowners	**112**	**20**	**132**
Network Utilities	**16**	**0**	**16**
Non Govt Organisations	**0**	**0**	**0**
Other Govt Departments	**1**	**0**	**1**
Iwi/hapu	**295**	**1**	**296**
Totals - April 2022	**475**	**22**	**497**

8) Application processing time extensions used 2020/2021 versus 2021-2022



9) Consent type process

	Last 10 year average 2011 - 2020	July 2020 to June 2021	July 2021 to April 2022
Total consents granted	360	269	202
Publically Notified	8	2	8
Limited-notified	12	1	0
Non-notified	342	266	194
Applications submitted on (in opposition and to be heard)	14	3	9
Application Pre-hearing resolution (%)	7 78%	1 33%	8 89%
Hearings (no. of applications)	1 (7)	2 (2)	0 (1*)
Appeals (no. of applications)	1 (6)	2 (2)	0 (0)
Total current consents	4724	4503	4518
	* Note: 1 x Decision released May		

10) Applications returned incomplete under Section 88

For the 2021-2022 year, 12 applications have been returned incomplete under S88 of the RMA for insufficient information. Nine of those applications have since been resubmitted by the applicant.

11) Deemed Permitted Activities issued

Nil

Date 7 June 2022

Subject: **Incident, Compliance Monitoring Non-Compliances and Enforcement Summary - 6 April 2022 to 17 May 2022**

Approved by: A D McLay, Director - Resource Management

S J Ruru, Chief Executive

Document: 3069518

Purpose

1. The purpose of this memorandum is to allow the Council to consider and receive the summary of the incidents, compliance monitoring non-compliances and enforcement for the period 6 April 2022 to 17 May 2022.
2. The annual inspection for farm dairy effluent monitoring programme commences in September each year and usually finishes around March, however follow up inspections and winter milking inspections are also carried out during the rest of the year.

Executive summary

Incidents

3. There are sixty eight (68) incidents reported.
4. Thirty one (31) of the incidents were found to be compliant and twenty three (23) were found to be non-compliant. Fourteen (14) of the incidents reported relate to non-compliances from previous periods (updates). The action taken on the incidents is set out for Members information.
5. For the twelfth reporting period in a row there continues to be a high number of incidents found to be compliant.

Compliance monitoring non-compliances

6. There are twelve (12) compliance monitoring non-compliances reported. Four (4) of the compliance monitoring non-compliances reported are updates from previous periods.
7. Twelve (12) of the non-compliances reported are as a result of the annual dairy inspection round.

Recommendations

That the Taranaki Regional Council:

a) receives this memorandum *Incident, Compliance Monitoring Non-Compliances and Enforcement Summary – 6 April 2022 to 17 May 2022*

b) receives the summary of the incidents, compliance monitoring non-compliances and enforcement for the period from 6 April 2022 to 17 May 2022, notes the action taken by staff acting under delegated authority and adopts the recommendations therein.

Background

8. The Council receives and responds to pollution events and public complaints throughout the year. Consent compliance monitoring undertaken can also identify non-compliance. This information is recorded in the IRIS database together with the results of investigations and any follow-up actions. Such incidents and non-compliances are publicly reported to the Council through the Consents and Regulatory Committee via the Incidents, Compliance Monitoring Non-compliances and Enforcement Report or the Annual Compliance Monitoring Reports.

9. Attached is the summary of the Incidents, Compliance Monitoring Non-compliances and Enforcement for the period from 6 April 2022 to 17 May 2022.

10. Staff have been delegated by the Council to undertake enforcement actions. The enforcement policy and procedures are approved by the Council and then consistently implemented and reported on by staff.

Disclosure Restrictions

11. The incident register information presentation was reviewed in 2014-2015 to increase reader understanding in this complex area. The first section addresses compliant incidents and can be publicly discussed. The second section provides an update on non-compliant incidents from previous meetings and where an incident has been resolved it can be publicly discussed. The third and fourth sections provide information on non-compliant incidents and non-compliances found during compliance monitoring during the period that are still under investigation and staff are limited in terms of public disclosure of information, while the investigation is ongoing and enforcement responses have not been determined. The incident flow chart and definition of terms provide further operational detail.

Discussion

12. Council responds to all complaints received with most complaints responded to within four hours. This usually involves a site visit. Responses to complaints and non-compliances with rules in the Council's regional plans, resource consents and the Resource Management Act 1991 are recorded in the IRIS database. Where necessary, appropriate advisory or enforcement actions are undertaken. The latter may include issuing an inspection, abatement or infringement notice, or initiating a prosecution. Where an infringement notice or prosecution is possible, details of the information in the Incidents, Compliance Monitoring Non-compliances and Enforcement agenda item and staff comment will be restricted for legal disclosure reasons. Further information will be

provided at a later date to the Council and for prosecutions a detailed report will be provided for information purposes, in the confidential section of the agenda.

13. A summary of Incidents, Compliance Monitoring Non-compliances and Enforcement for the period 6 April 2022 to 17 May 2022 is attached. The 'compliant' incidents are presented first in a table and the 'non-compliant' incidents are presented after in a more detailed summary, followed by the compliance monitoring non-compliances.
14. Generally, incidents in the 'compliant' table have a recommendation of 'no further action'. However, an incident is considered 'compliant' until such time as a non-compliance is found. Therefore, occasionally an incident in the 'compliant' table will have a recommendation of 'investigation continuing', if an ongoing investigation is still underway to confirm compliance.
15. A series of graphs are also attached comparing the number of incidents between 2016-2017 and 2021-2022, and also showing how the incidents are tracking in 2021-2022 in relation to environment type and compliance status. There is a graph showing the non-compliances found during compliance monitoring. There is also a graph showing enforcement action taken to date during 2021-2022.
16. The data in the graphs for 2021-2022 to date is showing that there are more incidents but less compliance monitoring non-compliances. Although in the first month of this period, there is limited data.

Decision-making considerations

17. Part 6 (Planning, decision-making and accountability) of the *Local Government Act 2002* has been considered and documented in the preparation of this agenda item. The recommendations made in this item comply with the decision-making obligations of the *Act*.

Financial considerations—LTP/Annual Plan

18. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

Policy considerations

19. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

Iwi considerations

20. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan. Similarly, iwi involvement in adopted work programmes has been recognised in the preparation of this memorandum.

Community considerations

21. This memorandum and the associated recommendations have considered the views of the community, interested and affected parties and those views have been recognised in the preparation of this memorandum.

Legal considerations

22. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.

Appendices/Attachments

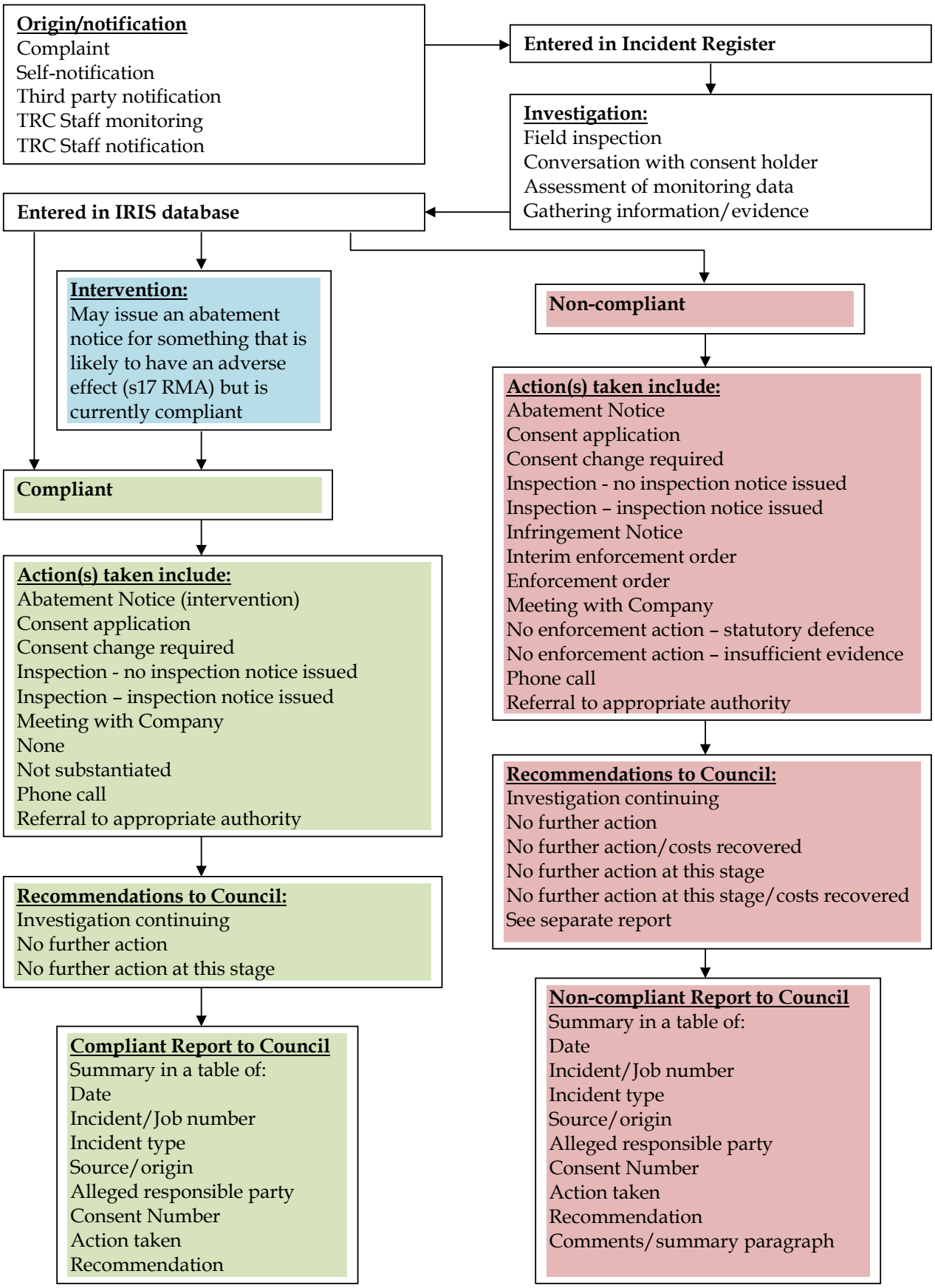
Document 1081324: Incident flowchart and terms explained

Document 3069582: Incident and Enforcement Graphs to 30 April 2022

Document 3069619: Incidents and Enforcement Summary 6 April 2022 to 17 May 2022

Incident flow chart

Doc # 1081324



Terms explained

Compliance rating

Compliant	After investigation the incident was found to be compliant with environmental standards or other regulations, permitted rules in a regional plan (e.g. RFWP, RAQP, RCP allowed), a resource consent and/or the Resource Management Act 1991.
Non-compliant	After investigation the incident was found to be non-compliant with environmental standards or other regulations, rules in a regional plan, a resource consent and/or the Resource Management Act 1991

Origin/Notification:

Complaint	Notification of incident received from public.
Self notification	Notification of incident received from the responsible party.
Third Party Notification	Notification of incident received from third party such as New Zealand Fire, District Council etc.
TRC Staff monitoring	Notification of incident found during routine compliance monitoring.
TRC Staff notification	Notification of incident found during unrelated monitoring/field work.

Action/s Taken:

14 day Letter	A letter was sent requesting an explanation for the non-compliance and why enforcement action should not be considered. The recipient is given 14 days to reply.
Abatement Notice	A notice was issued requiring something to be undertaken or something to cease to ensure compliance with Rules in the regional plans, resource consent or Resource Management Act 1991. Notice must be complied with or further enforcement action can be considered.
Consent application	A consent application has been received as a result of the investigation.
Consent change required	During the investigation it was found that a consent change was required.
Emergency Works	Emergency works was allowed under section 330 of the RMA. Often a subsequent resource consent is required.
Enforcement Order	An enforcement order has been issued by the Environment Court requiring action to be undertaken or something to cease. Notice must be complied with or further enforcement action can be

	considered.
Infringement Notice ($xxx.xx)	An infringement notice was issued under Section 338(1)(a) of the Resource Management Act 1991 and Councils delegated authority.
Inspection Notice	An inspection was undertaken and a notice of advice/instruction was issued to landowner/alleged offender.
Inspection/no notice issued	An inspection was undertaken, however no inspection notice was issued as there was no alleged offender/landowner to issue one to (natural event, unsourced etc).
Interim Enforcement Order	An interim enforcement order has been issued by the Environment Court requiring action to be undertaken or something to cease. Notice must be complied with or further enforcement action can be considered.
Meeting with Company	A meeting was held with the Company to discuss the incident and ways to resolve any issues.
None	No action was required.
Not Substantiated	The incident could not be substantiated (i.e. it is not likely/possible/probable that the alleged incident could have taken place).
Phone call	A phone call was made to the alleged offender/authority.
Prosecution	A prosecution is being initiated for this incident.
Referral to Appropriate Authority	The incident was referred to the appropriate authority (District Council, Department of Conservation etc).

Recommendations to Council

Investigation continuing	Outcome has not been finalised. Investigation is continuing on this incident, information/evidence still being gathered. Further action, including enforcement are being considered and therefore legally all information cannot be reported on this incident at this stage. These incidents will continue to be reported as updates in the following agendas.
No Further Action	Investigation is completed, any required enforcement action has been undertaken and no further action is required.
No Further Action At This Stage	Investigation is completed, any required enforcement action has been undertaken and further action may be required at a later date.
No Further Action/Costs Recovered	Investigation is completed, any required enforcement action has been undertaken and no further action is required. Costs will be recovered from the alleged offender for the investigation.

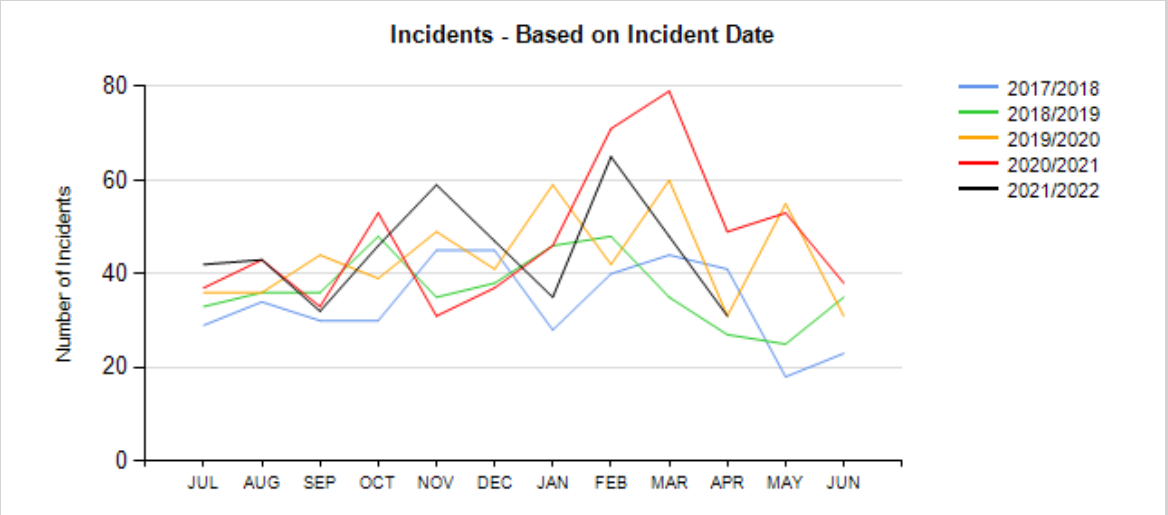
No further Action at this Stage/Costs Recovered	Investigation is completed, any required enforcement action has been undertaken and further action may be required at a later date (reinspection of Abatement Notice etc). Costs will be recovered from the alleged offender for the investigation.

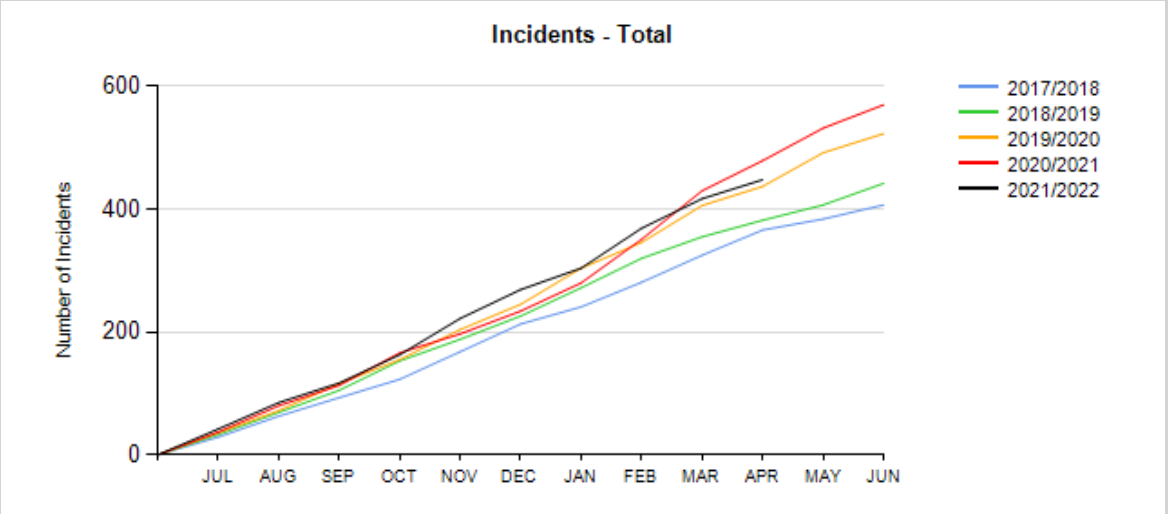
Defences under Sections 340 and 341 of the Resource Management Act 1991

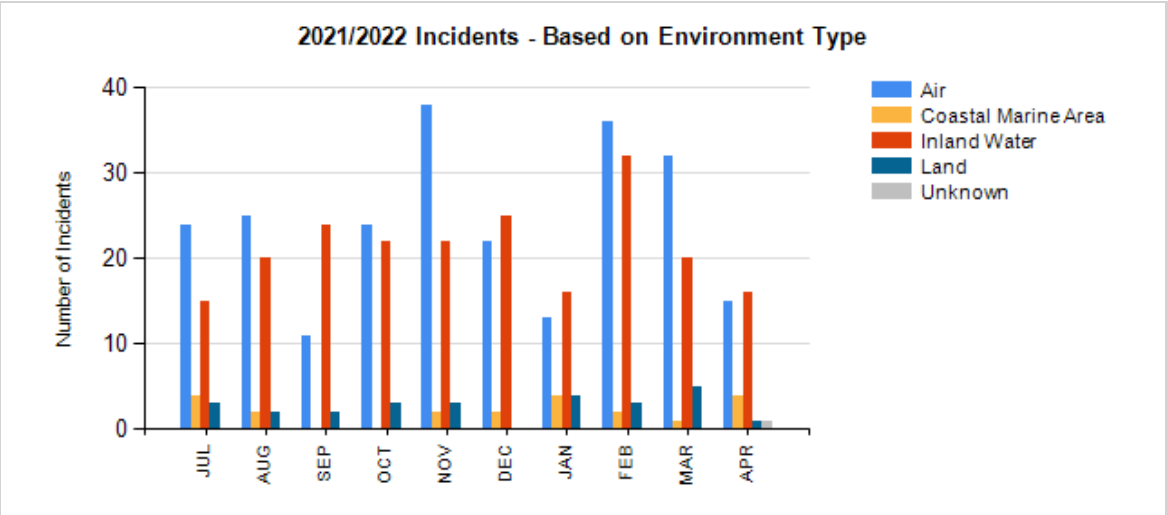
Sometimes no enforcement action is undertaken against an alleged offender for a non-compliant incident as they have a defence under Section 340 of the Resource Management Act 1991 including reasons such as:

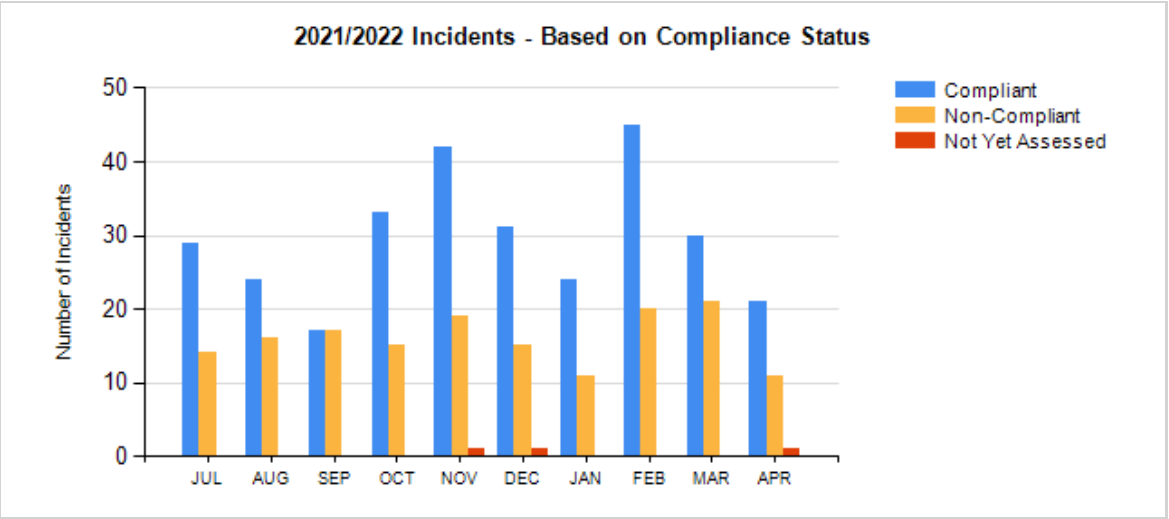
- the defendant can prove that he or she did not know, and could not reasonably be expected to have known that the offence was to be or was being committed, or
- that he or she took all reasonable steps to prevent the commission of the offence, or
- the action or event could not reasonably have been foreseen or been provided against by the defendant.

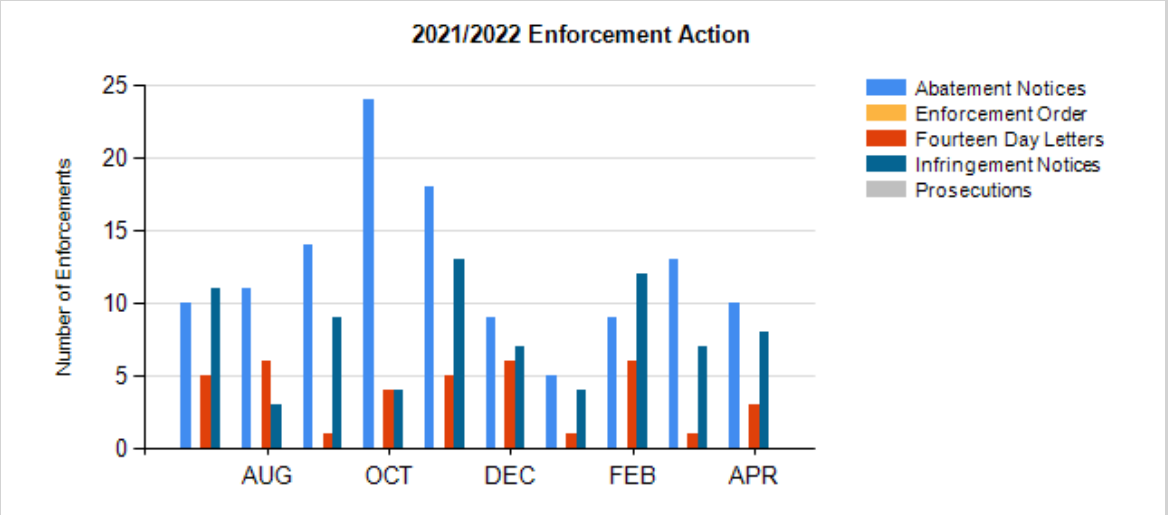
Incident and Enforcement Graphs to 30 April 2022

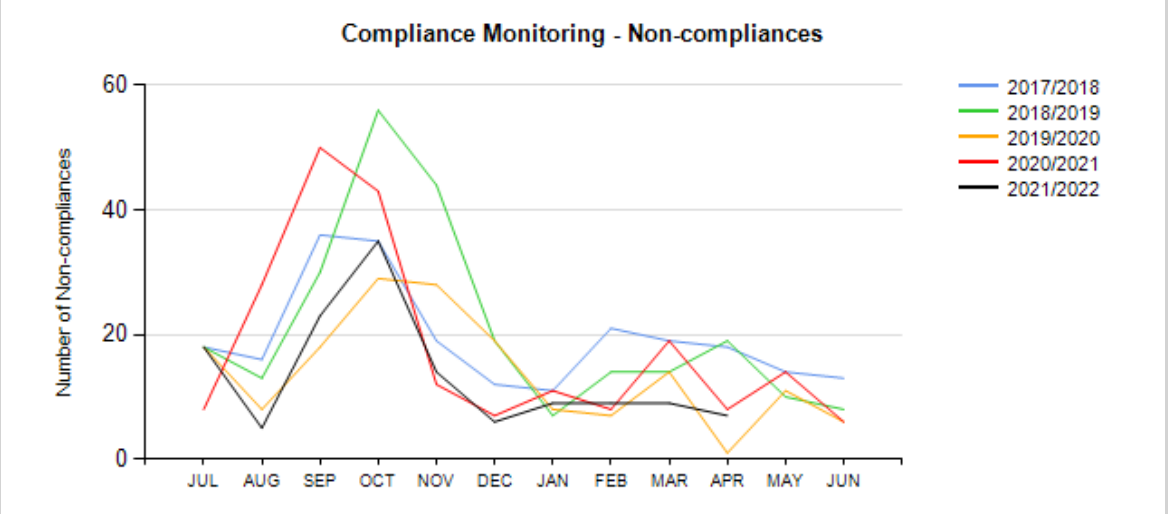


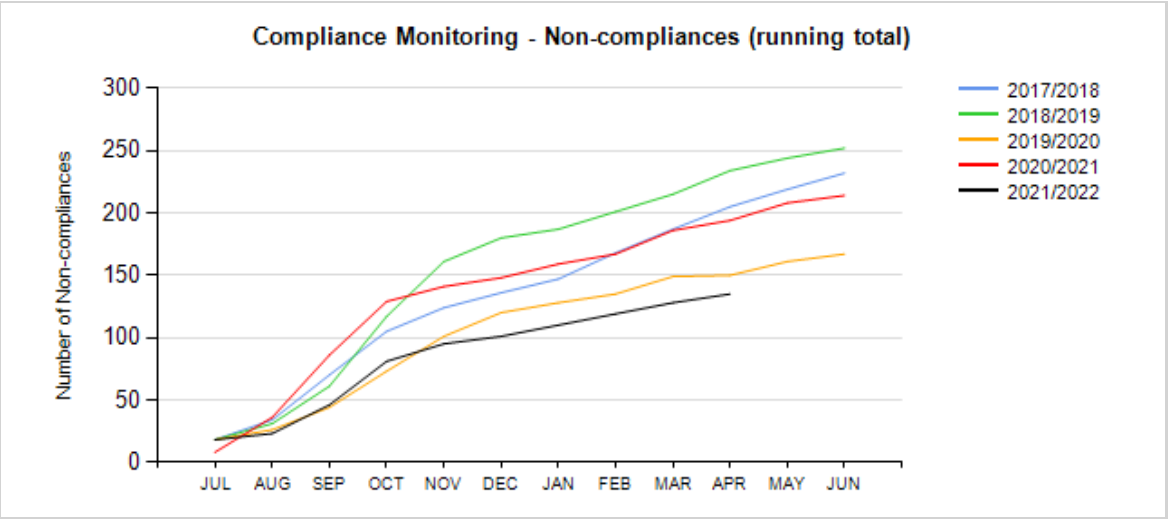





2021/2022 Incidents - Based on Compliance Status
Number of Incidents
0
10
20
30
40
50
JUL
AUG
SEP
OCT
NOV
DEC
JAN
FEB
MAR
APR
Compliant
Non-Compliant
Not Yet Assessed


2021/2022 Enforcement Action
Number of Enforcements
0
5
10
15
20
25
AUG
OCT
DEC
FEB
APR
Abatement Notices
Enforcement Order
Fourteen Day Letters
Infringement Notices
Prosecutions


Compliance Monitoring - Non-compliances
Number of Non-compliances
0
20
40
60
JUL
AUG
SEP
OCT
NOV
DEC
JAN
FEB
MAR
APR
MAY
JUN
2017/2018
2018/2019
2019/2020
2020/2021
2021/2022


Compliance Monitoring - Non-compliances (running total)
Number of Non-compliances
300
250
200
150
100
50
0
JUL
AUG
SEP
OCT
NOV
DEC
JAN
FEB
MAR
APR
MAY
JUN
2017/2018
2018/2019
2019/2020
2020/2021
2021/2022

Compliant Incidents for the period 06 Apr 2022 to 17 May 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Compliance Status	Recommendation
8 Feb 2022	3301-22-456 IN/45097	Alleged earthworks - Hurford Road, Omata	Complaint	Tracey Turner		RFWP Allowed	No Further Action
6 Apr 2022	3301-22-428 IN/44914	Alleged dead fish and tyre in Waiwhakaiho River - New Plymouth	Complaint	Unsourced		Not Applicable/Natural Event	No Further Action
7 Apr 2022	3301-22-431 IN/44978	Alleged odour - Mokau Road, Uruti	TRC Staff Compliance Monitoring	Remediation (NZ) Limited	R2/5839-2	Consent Compliance	No Further Action
11 Apr 2022	3301-22-432 IN/44943	Alleged discoloured River - West Quay, Waitara	Complaint	Unsourced		Not Applicable/Natural Event	No Further Action
11 Apr 2022	3301-22-433 IN/44945	Alleged sewage - Shaldon Crescent, Spotswood	Self-Notification	New Plymouth District Council	R2/0882-4.1 R2/10406-1.0	RFWP Allowed	No Further Action
11 Apr 2022	3301-22-439 IN/45061	Alleged polystyrene on beach and in stream - Okato	TRC Staff Notification	Unsourced		RFWP Allowed	No Further Action
13 Apr 2022	3301-22-436 IN/44993	Alleged drilling fluid discharge - St Aubyn/Dawson Streets, New Plymouth	Third Party Notification	Archer Emerald (Bermuda) Ltd		RFWP Allowed	No Further Action
13 Apr 2022	3301-22-440 IN/44996	Alleged dust - Carrington Street, New Plymouth	Complaint	Naki Development Ltd		RAQP Allowed	No Further Action
15 Apr 2022	3301-22-441 IN/45008	Alleged smoky fire - Eltham Road, Kaponga	Complaint	Ida Lea Trust		RAQP Allowed	No Further Action
21 Apr 2022	3301-22-442 IN/45030	Alleged odour - East Road, Stratford	Complaint	Gerald Frances & Maree Ann Collins		RAQP Allowed	No Further Action

Compliant Incidents for the period 06 Apr 2022 to 17 May 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Compliance Status	Recommendation
22 Apr 2022	3301-22-443 IN/45038	Alleged rubbish in Waiwhakaiho River - Devon Street East, New Plymouth	Complaint	Unsourced		RFWP Allowed	No Further Action
23 Apr 2022	3301-22-444 IN/45244	Alleged resin spill - Waiwaka Terrace, Strandon	Self-Notification	Brian Perry Civil Downer NZ Limited		RFWP Allowed	No Further Action
24 Apr 2022	3301-22-445 IN/45258	Alleged stone dust - Richmond Street, Inglewood	Complaint	Stephen Herlihy		RAQP Allowed	No Further Action
25 Apr 2022	3301-22-455 IN/45093	Alleged dairy effluent on beach - Turangi Road, Motonui	Complaint	Unsourced		RFWP Allowed	No Further Action
25 Apr 2022	3301-22-446 IN/45259	Alleged sewage odour - Hua Street, Bell Block	Complaint	New Plymouth District Council		RAQP Allowed	No Further Action
26 Apr 2022	3301-22-448 IN/45068	Alleged odour - East Road, Stratford	Complaint	Gerald Frances & Maree Ann Collins		RAQP Allowed	No Further Action
26 Apr 2022	3301-22-449 IN/45074	Alleged dairy effluent - Pilot Station Road, Patea	Complaint	Craig & Juliet Partridge	R2/1251-3	Consent Compliance	No Further Action
26 Apr 2022	3301-22-450 IN/45075	Alleged discolouration - Back Beach - New Plymouth	Complaint	Unsourced		RCP Allowed	No Further Action
26 Apr 2022	3301-22-451 IN/45079	Alleged odour - Upper Stewart Road, Eltham	Complaint	Unsourced		RAQP Allowed	No Further Action
28 Apr 2022	3301-22-453 IN/45086	Alleged green Stream - Mountain Road, Tariki	Complaint	Unsourced		RFWP Allowed	No Further Action

Compliant Incidents for the period 06 Apr 2022 to 17 May 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Compliance Status	Recommendation
29 Apr 2022	3301-22-457 IN/45098	Alleged odour - Powderham Street, New Plymouth	Complaint	Harvey McCandlish Pro Paint NZ		RAQP Allowed	No Further Action
5 May 2022	330122-461 IN/45136	Alleged odour - East Road, Stratford	Complaint	Gerald Frances & Maree Ann Collins		RAQP Allowed	No Further Action
7 May 2022	3301-22-465 IN/45161	Alleged smoke - Clearview Road, Lepperton	Complaint	Unsourced		Not Applicable/Natural Event	No Further Action
7 May 2022	3301-22-468 IN/45163	Alleged smoke - Rata Road, Hawera	Complaint	Unsourced		RAQP Allowed	No Further Action
8 May 2022	3301-22-469 IN/45173	Alleged discoloured discharge - Back Beach - New Plymouth	Complaint	Energy Infrastructure Limited		RFWP Allowed	No Further Action
10 May 2022	3301-22-464 IN/45171	Alleged offal pit odour - South Road, Omata	Complaint	DM Sander		RAQP Allowed	No Further Action
11 May 2022	3301-22-471 IN/45186	Alleged odour - Oakura River - Oakura	Complaint	Unsourced		RAQP Allowed	No Further Action
12 May 2022	3301-22-472 IN/45203	Alleged rubbish in stream - Rod Syme Place, Hawera	Complaint	Terry McNamara		RFWP Allowed	No Further Action
12 May 2022	3301-22-473 IN/45217	Alleged burning odour - Swansea Road, Stratford	Complaint	Unsourced		RAQP Allowed	No Further Action
13 May 2022	3301-22-476 IN/45238	Alleged dead cow - Stoney River - Okato	Third Party Notification	Unsourced		RFWP Allowed	No Further Action

Compliant Incidents for the period 06 Apr 2022 to 17 May 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Compliance Status	Recommendation
17 May 2022	3301-22-486 IN/45260	Alleged digger in stream - East Road - Stratford	Complaint	Laurence Cooke		RFWP Allowed	No Further Action

Updates of Non-Compliant incidents from previous agendas

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
1 Dec 2021 Update	3301-22-234 IN/43934	Non-notified forestry - Braemore Road, Waverley	Third Party Notification	Fulbor Contracting (73554) Harley Froggatt (73555)			Investigation Continuing
Comments: Notification was received, from South Taranaki District Council, that some non-notified forestry activities were occurring at a site on Braemore Road, Waverley. Initial investigation found that there are issues with other illegal activities at the site which the Police are dealing with. Further investigation will be undertaken with Police assistance.							
1 Feb 2022 Update	3301-22-312 IN/44338	Drilling mud discharge - Blake Street, Waitara	Complaint	M Hareb Excavating Limited (32118)		EAC-24574 - Abatement Notice	No Further Action At This Stage/Costs Recovered
Comments: A complaint was received concerning drilling mud being processed on an industrial site in Waitara. Investigation found that some unknown materials had been placed in a bunded area. Analysis of samples taken found that there were high chlorides in the material in contravention of rules in the Regional Fresh Water Plan for Taranaki. The site operator engaged a consultant to take soil samples across the whole site to establish the extent of the problem before developing a disposal plan. Sample results found minimal contamination. An abatement notice was issued requiring Rule 29 of the Regional Fresh Water Plan for Taranaki to be complied with. Reinspection will be undertaken after 11 June 2022.							
2 Feb 2022 Update	3301-22-308 IN/44327	Dust - Swansea Road, Stratford	Complaint	Jason Bunn (17185)			Investigation Continuing
Comments: A complaint was received concerning dust from a property on Swansea Road, Stratford. Investigation found that objectionable dust was discharging beyond the boundary of the site. An abatement notice was issued as a result of another incident two days later. Further enforcement action is being considered.							

Updates of Non-Compliant incidents from previous agendas

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
11 Feb 2022 Update	3301-22-341 IN/44437	Unauthorised earthworks - Muggeridge Road, Manutahi	Complaint	Alastair Geary (16166)		EAC-24422 - Abatement Notice EAC-24423 - Abatement Notice EAC-24543 - Infringement Notice ($300)	No Further Action/Costs Recovered

Comments: A complaint was received regarding earthworks in a wetland on Muggeridge Road, Manutahi. Investigation found that there has been earthworks within 10 metres of a wetland, and possibly within a wetland, in contravention of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NESFW). Two abatement notices were issued requiring the works to cease immediately and for silt and sediment controls to be installed and maintained. Reinspection found that the abatement notices were being complied with at the time of inspection.

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
11 Feb 2022 Update	3301-22-411 IN/44776	Chemical spill - Waiinu Beach Road, Waitotara	Self-Notification	Silver Fern Farms Limited (30302) Silver Fern Farms Limited (30387)	R2/5027-2	EAC-24548 - Infringement Notice ($750)	No Further Action/Costs Recovered

Comments: Self-notification was received concerning a chemical discharge at a meat processing plant at Waiinu Beach Road, Waitotara. Investigation found that approximately 10-15 litres of 'Enforce' was spilt on site the previous evening, as a result of cleaning contractor decanting the chemical for their work. Initial reports advised that no chemical had discharge into any waterbody. However, a subsequent report advised that a discharge into a nearby tributary had occurred. A full incident report was received from the Company.

Updates of Non-Compliant incidents from previous agendas

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
1 Mar 2022 Update	3301-22-375 IN/44638	Odour - Mokau Road, Uruti	Complaint	Anzco Foods Eltham Limited (54474) Remediation (NZ) Limited (30679)	R2/5839-2	EAC-24518 - Explanation Requested - Letter	Investigation Continuing
Comments: Several complaints were received concerning odour emanating from a composting site at Mokau Road, Uruti. Investigation found that odours were detected off site, however an assessment against the FIDOLT factors found that the odours were in compliance with resource consent conditions. An inspection on site found that an unauthorised load of beef lungs and livers had been deposited at the site in contravention of resource consent conditions. Enforcement action is being considered.							
7 Mar 2022 Update	3301-22-383 IN/44668	Smoke/burning - Manawapou Road, Hawera	Complaint	Patrick & Dorothy Powell (16129)		EAC-24554 - Infringement Notice ($300)	No Further Action
Comments: A complaint was received concerning smoke from a fire near Manawapou Road, Hawera. Investigation found that three piles of vegetation had been set alight on the property. There were also some unauthorised materials being burnt. Smoke was discharging beyond the boundary of the property affecting neighbours.							
8 Mar 2022 Update	3301-22-384 IN/44677	Smoke/burning - Finnerty Road, Stratford	Complaint	Phil Meerman (14179)		EAC-24556 - Infringement Notice ($300)	No Further Action
Comments: A complaint was received concerning smoke from a fire at Finnerty Road, Stratford. Investigation found a significant amount of unauthorised materials had been burnt that included plastic, building materials and coated wiring.							

Updates of Non-Compliant incidents from previous agendas

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
9 Mar 2022 Update	3301-22-392 IN/44954	Smoke/burning - Manawapou Road, Hawera	Complaint	Patrick & Dorothy Powell (16129)		EAC-24555 - Infringement Notice ($300)	No Further Action
Comments: A complaint was received concerning smoke from a fire near Manawapou Road, Hawera. Investigation found that three burn piles of vegetation, treated timber, coated wire, steel, roofing iron and various other unauthorised materials had been set alight. Smoke from the fires were affecting neighbouring properties.							
10 Mar 2022 Update	3301-22-405 IN/44894	Non-notified forestry activity - Avenue Road, Urenui	Complaint	Newton Harvesting Limited (73839)		EAC-24564 - Infringement Notice ($300)	No Further Action/Costs Recovered
Comments: A complaint was received concerning forestry activities on a site at Avenue Road, Urenui. Investigation found that no notification was received as required by the National Environmental Standards for Plantation Forestry. Works undertaken were compliant with all other regulations.							
11 Mar 2022 Update	3301-22-398 IN/44753	Paint odour - Devon Street West, New Plymouth	Complaint	Harvey McCandlish (73243) Pro Paint NZ (72830)			Investigation Continuing
Comments: A complaint was received concerning paint odour discharging from a property on Devon Street West, New Plymouth. An odour survey was undertaken and objectionable odour was found beyond the boundary of the site in contravention of rules in the Regional Air Quality Plan for Taranaki. The odour was occurring due to a large truck being painted outside (outside the spraybooth). Enforcement action is being considered.							
11 Mar 2022 Update	3301-22-404 IN/44795	Non-notified forestry activity - Mangaoapa Road, Matau	TRC Staff Compliance Monitoring	Hasler Bros (72676)		EAC-24566 - Infringement Notice ($300)	No Further Action/Costs Recovered
Comments: A complaint was received concerning forestry activities on a site at Mangaoapa Road, Matau. Investigation found that no notification was received as required by the National Environmental Standards for Plantation Forestry. Works undertaken were compliant with all other regulations.							

Updates of Non-Compliant incidents from previous agendas

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
21 Mar 2022 Update	3301-22-415 IN/44804	Smokey fire - Swansea Road, Stratford	TRC Staff Notification	JTL Carbon Farming Consultancy (33732) Shane Jordan (73380) Stratford High School (12008)		EAC-24557 - Infringement Notice ($750)	No Further Action/Costs Recovered
Comments: A complaint was received concerning smoke from a fire at Swansea Road, Stratford. Investigation found that burning of forestry slash had caused a significant amount of smoke to discharge beyond the boundary of the property, affecting neighbours. Further investigation found that some forestry slash clearance had occurred within a unnamed tributary of the Patea River, causing discoloration, erosion and silt discharge into the Patea River.							
23 Mar 2022 Update	3301-22-417 IN/44799	Sediment discharge - Allen Road, Omata	Complaint	Denis Wheeler Limited (73298) Mark Pardington (52941)		EAC-24484 - Abatement Notice EAC-24487 - Explanation Requested - Letter EAC-24561 - Infringement Notice ($300) EAC-24562 - Infringement Notice ($300) EAC-24563 - Infringement Notice ($750)	No Further Action
Comments: A complaint was received regarding earthworks on a vacant site at Allen Road, Omata. Investigation found that the earthworks were in contravention of the Rules in the Regional Fresh Water Plan for Taranaki. A letter requesting explanation was sent to the contractor. An abatement notice was issued to the landowner to undertake works to install and maintain silt and sediment controls. Reinspection found that the abatement notice was being complied with at the time of inspection.							

Non-compliant incidents for the period 06 Apr 2022 to 17 May 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
11 Mar 2022	3301-22-458 IN/45109	Contaminants in water - Mokau Road, Uruti	TRC Staff Compliance Monitoring	Remediation (NZ) Limited (30679)	R2/5838-2.2	EAC-24540 - Abatement Notice	No Further Action At This Stage/Costs Recovered
Comments: During analysis of water samples taken during routine monitoring on 11 March 2022, it was found that elevated levels of contaminants including Chloride and Ammonia were within an unnamed tributary of the Haehanga Stream at a composting site at Mokau Road, Uruti. Further sampling was undertaken on 30 March 2022 and analysis of samples found elevated levels of Ammonia. An abatement notice was issued requiring works to be undertaken to address the contamination. Reinspection will be undertaken after 15 August 2022.							
30 Mar 2022	3301-22-434 IN/44971	Unauthorised burning/farm dump - Skeet Road, Auroa	TRC Staff Notification	Delvin Kapuni Limited (35590) Steven & Maria Poole (2508)	R2/1472-3	EAC-24573 - Abatement Notice	Investigation Continuing
Comments: During unrelated monitoring it was found that burning of unauthorised materials (including car parts, dead animals, building materials, chemicals drums, a couch and general household rubbish) was occurring within a farm dump at a property at Skeet Road, Auroa. Enforcement action is being considered.							
5 Apr 2022	3301-22-429 IN/44967	Burning and cleanfill - Cnr South Road and Namu Road, Oounake	Complaint	Darrell Hickey (10673) Darrell Hickey Family Trust (17120)		EAC-24549 - Abatement Notice EAC-24550 - Abatement Notice	Investigation Continuing
Comments: A complaint was received concerning a large amount of unauthorised materials being dumped and burnt at a property on the corner of South Road and Namu Road, Opunake. Investigation found that there were piles of materials being burnt on the site, which included car-parts, tyres, televisions, electronic equipment, steel and coated wire, domestic rubbish, building and demolition materials (including lead paint) and green waste. Abatement notices were issued requiring the cessation of accepting and combusting waste materials; and the removal and disposal of all unauthorised materials. Reinspection will be undertaken after 3 June 2022. Further enforcement action is being considered.							

Non-compliant incidents for the period 06 Apr 2022 to 17 May 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
6 Apr 2022	3301-22-430 IN/44928	Soap suds/foam in Waitaha Stream - Bell Block	Complaint	Agrifert NZ Limited (31183)		EAC-24510 - Abatement Notice EAC-24511 - Abatement Notice EAC-24514 - Explanation Requested - Letter	Investigation Continuing
Comments: A complaint was received concerning 'soap suds' in the Waitaha Stream in Bell Block. Investigation found that there was foam in the Waitaha Stream, up to about eight feet high in some places. An extensive investigation of properties upstream found that a discharge of wash water, containing surfactant, had occurred from an agricultural fertiliser site. Samples and photographs were taken. Abatement notices were issued requiring the discharge of wash water to cease and for works to be undertaken to comply with Rule 23 of the Regional Fresh Water Plan for Taranaki. Reinspection will be undertaken after 27 May 2022. A letter requesting explanation was sent. Further enforcement action is being considered.							
10 Apr 2022	3301-22-435 IN/44979	Backyard Burning - Graham Street, Eltham	Complaint	Shaun Watt (73875)		EAC-24517 - Abatement Notice	No Further Action
Comments: A complaint was received concerning smoke discharging from a fire on a neighbouring residential property at Graham Street, Eltham. Investigation found that vegetation was being burnt within a defined urban area. An abatement notice was issued requiring burning to cease. Reinspection found that the abatement notice was being complied with.							
12 Apr 2022	3301-22-438 IN/45060	Dead cow in Tapuae Stream - Hurford	Complaint	Steven & Nicola Avery (25980)			No Further Action
Comments: A complaint was received concerning a dead cow in the Tapuae Stream near Pheney Road, Hurford. Investigation found that there was a dead cow in the stream. The owner was traced and was unaware the cow had gone missing. The carcass was removed and disposed of in an approved manner.							

Non-compliant incidents for the period 06 Apr 2022 to 17 May 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
13 Apr 2022	3301-22-437 IN/44995	Dust - Connett Road, Bell Block	Complaint	ICE Properties Ltd (68428) Tobias Lecher (36043)		EAC-24520 - Abatement Notice	No Further Action
Comments: A complaint was received concerning dust discharging from earthworks at a property at Connett Road, Bell Block. Investigation found that objectionable levels of dust were discharging from the development site. An abatement notice was issued requiring works to be undertaken to prevent the discharge of objectionable dust beyond the boundary of the site. Reinspection found that abatement notice was being complied with at the time of inspection.							
20 Apr 2022	3301-22-463 IN/45216	Sewage discharge - South Road, Hawera	Complaint	Mohammed and Fayroza Davids (73939)			Investigation Continuing
Comments: A complaint was received concerning a sewage discharge into an unnamed tributary of the Waihi 5 Stream, at South Road, Hawera. Investigation found that the domestic waste water system was not compliant with the Regional Fresh Water Plan for Taranaki. Water samples were taken. Enforcement action is being considered.							
22 Apr 2022	3301-22-447 IN/45062	Concrete batching plant - Vampire Place - Bell Block	TRC Staff Compliance Monitoring	Firth Industries Limited (10053)			Investigation Continuing
Comments: During unrelated monitoring it was found that a concrete batching plant was operating in Vampire Place, Bell Block. No resource consent was held for the activity and it was likely in contravention of the Regional Fresh Water Plan for Taranaki. Further information has been requested from the Company and the investigation is continuing.							

Non-compliant incidents for the period 06 Apr 2022 to 17 May 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
27 Apr 2022	3301-22-454 IN/45092	Odour - Mokau Road, Uruti	Complaint	Remediation (NZ) Limited (30679)	R2/5839-2	EAC-24538 - Explanation Requested - Letter	Investigation Continuing
Comments: A complaint was received concerning odour discharging from a composting site at Mokau Road, Uruti. At the time the complaint was received, proactive monitoring was being undertaken in the vicinity of the site. The odour survey undertaken during the monitoring found that there was offensive odour beyond the boundary of the site, in contravention of resource consent conditions and an abatement notice issued as a result of a previous non-compliance. No offensive or objectionable odour was found at any nearby residences. A letter requesting explanation was sent. Enforcement action is being considered.							
28 Apr 2022	3301-22-452 IN/45085	Smoke - Lepper Road, Inglewood	Complaint	John Frederickson (11275)			Investigation Continuing
Comments: A complaint was received concerning black smoke and plastic type odour from a large fire burning in the area of Bedford/Dudley Roads, Inglewood. A Council officer on leave also called in to advise of the black smoke from a fire. Investigation found a vegetation fire on a property at Lepper Road. At the time of inspection the fire was nearly extinguished but still smoldering. The responsible party admitted that he had used some tyres to start the fire. Enforcement action is being considered.							
2 May 2022	3301-22-459 IN/45112	Foam in Waitaha Stream - Bell Block	Complaint	Unsourced (9768)			No Further Action
Comments: A complaint was received regarding foam in the Waitaha Stream at Bell Block. Investigation found that there was foam in the stream, which was traced to a large road culvert. However despite detailed investigation no source for any unauthorised discharges could be found.							
4 May 2022	3301-22-463 IN/45135	Cows in Wetland - Lower Taumaha Road, Manutahi	Complaint	Alastair Geary (16166)			Investigation Continuing
Comments: A complaint has been received concerning cows in a wetland at a property at Lower Taumaha Road, Manuatahi. Photo evidence was provided of cows in the wetland. Enforcement action is being considered.							

Non-compliant incidents for the period 06 Apr 2022 to 17 May 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
5 May 2022	3301-22-462 IN/45140	Concrete Spill - Sackville Street, Fitzroy	Third Party Notification	M3P Concrete (73932)		No Enforcement Action - Statutory defence	No Further Action
Comments: A complaint was received concerning concrete being discharged into a stormwater drain at Sackville Street, Fitzroy. Investigation found that there was a discharge occurring at the time of inspection and the building contractor was taking steps to clean up the concrete which was not effective. The building contractor explained that a concrete contractor was responsible for the discharge. The concrete contractor was contacted and undertook immediate steps to clean up the concrete. The discharge was unforeseen and had occurred due to a pump backfiring.							
6 May 2022	3301-22-467 IN/45162	Effluent discharge - Upper Glen Road, Kaponga	Complaint	Unsourced (9768)			No Further Action
Comments: A complaint was received regarding effluent being discharged onto the side of the road from a stock truck, at Glen Road, Kaponga. The responsible party could not be traced. There was no concern of any effluent discharging to any waterbody.							
7 May 2022	3301-22-466 IN/45164	Odour - East Road, Stratford	Complaint	Gerald Frances & Maree Ann Collins (3552)			No Further Action
Comments: A complaint was received concerning odour from an underpass on East Road, Stratford. Investigation found that there was an objectionable odour discharging from the underpass. The landowner undertook immediate works to clean up the underpass to prevent further odour.							
8 May 2022	3301-22-470 IN/45165	Green stream - Skeet Road, Hawera	Complaint	Unsourced (9768)			No Further Action
Comments: A complaint was received regarding a 'green' stream at a property at Skeet Road, Hawera. Investigation found that the stream was running green. Despite detailed investigation of upstream properties, no unauthorised discharges could be found. The stream had cleared the following day.							

Non-compliant incidents for the period 06 Apr 2022 to 17 May 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
12 May 2022	3301-22-474 IN/45219	Burning in farm dump - Cordelia Street, Stratford	TRC Staff Notification	Noel Taylor (16909)		EAC-24567 - Abatement Notice	Investigation Continuing

Comments: During unrelated monitoring it was found that a farm rubbish pile had been set alight at a lifestyle block at Cordelia Street, Stratford. There were unauthorised materials including domestic rubbish, automotive parts, steel and plastic roofing, furniture, building materials, paint cans and plastic wheelie bins in the burning pile. An abatement notice was issued requiring rules in the Regional Air Quality Plan for Taranaki and Regional Fresh Water Plan for Taranaki to be complied with. Reinspection found that the abatement notice was not being complied with and further action is being considered.

12 May 2022	3301-22-478 IN/45240	White Bait Stand - Onaero River	Complaint	Craig Keech (69246)			Investigation Continuing

Comments: A complaint was received concerning a structure, in the Coastal Marine Area (CMA), on the banks of the Onaero River, Onaero. Investigation found an unauthorised structure was erected in the CMA in contravention of rules in the Coastal Plan for Taranaki. The responsible party was traced and instructed to remove the structure. Reinspection will be undertaken after 6 June 2022 and if the structure has not been removed enforcement action will be considered.

14 May 2022	3301-22-475 IN/45241	Smoke - Otaraoa Road, Tikorangi	Complaint	Curtis Searancke (73960)			Investigation Continuing

Comments: A complaint was received concerning smoke from burning on a rural property at Otaraoa Road, Onaero. Investigation found that a large fire had be lit and unauthorised materials had been burnt in contravention of rules in the Regional Air Quality Pan for Taranaki. Enforcement action is being considered.

Non-compliant incidents for the period 06 Apr 2022 to 17 May 2022

Incident Date	Job Number IRIS ID	Incident Type	Source	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
15 May 2022	3301-22-477 IN/45239	Foam in Te Henui Stream - New Plymouth	Complaint	Amber and Black Quality Used Cars Limited (73957) Darryl MacDonald (73958)		EAC-24571 - Abatement Notice	Investigation Continuing
Comments: A complaint was received concerning foaming in the Te Henui Stream near Lemon Street, New Plymouth. Investigation found foam was present in the stream. Further investigation found that a car valet company was discharging washwater in contravention of the Regional Fresh Water plan for Taranaki. New Plymouth District Council were also advised of the complaint. Enforcement action is being considered.							
16 May 2022	3301-22-479 IN/45225	Rubbish in waterbody - South Road, New Plymouth	Complaint	Layne & Helen Greensill No 1 Family Trust & Layne & Helen Greensill No 2 Family Trust (52725)		EAC-24570 - Abatement Notice	No Further Action At This Stage
Comments: A complaint was received concerning a farm dump at a property at Mid Puniho Road/South Road, New Plymouth. Investigation found that there was a farm dump that was partially in a stream. Further investigation found that the stream was historically piped and the farm dump was over the piped stream. Due to a blockage in the pipe the stream had reinstated, flowing through the farm dump. An abatement notice was issued requiring works to be undertaken to ensure compliance with Rule 30 of the Regional Fresh Water Plan for Taranaki. Reinspection will be undertaken after 20 June 2022.							
17 May 2022	3301-22-480 IN/45232	Burning - Egmont Road, New Plymouth	Complaint	Central House Movers (73967)			Investigation Continuing
Comments: A complaint was received concerning burning on a property at the end of Egmont Road, New Plymouth. Investigation found that unauthorised materials, including a small amount of steel and plastic, was being burnt on an industrial site. The responsible party was advised that the burning was prohibited and the fire was immediately extinguished. Enforcement action is being considered.							

Updates of Compliance Monitoring – Non-compliances from previous agendas

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
21 Dec 2021 Update	332122-079 ENF-23297	Annual Inspection	Significant non-compliance	John & Fiona Henchman (3879)	R2/1519-3	EAC-24558 - Infringement Notice ($750) EAC-24472 - Infringement Notice ($750) EAC-24365 - Explanation Requested - Letter	No Further Action/Costs Recovered
Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions and in contravention of Abatement Notice EAC-24213, which was issued as a result of a previous non-compliance. A letter of explanation was received. Reinspection found that the system was still not compliant. A follow up inspection found the system was compliant.							
18 Feb 2022 Update	332122-105 ENF-23374	Annual Inspection	Significant non-compliance	Mitchell Family Trust (22004) Paul Mitchell (24675)	R2/5776-2.0	EAC-24449 - Abatement Notice	No Further Action/Costs Recovered
Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions and was also in contravention of Abatement Notice EAC-23837 issued as a result of a previous non-compliance, at Rakaupiko Road, Patea.							
10 Mar 2022 Update	332122-115 ENF-23445	Annual Inspection	Significant non-compliance	Ihaia Te-Mara Trust (20380) James Langton (30120)	R2/3764-2		Investigation Continuing
Comments: During the annual dairy inspection round it was found that the farm dairy effluent oxidation pond disposal system was not operating within resource consent conditions and in contravention of Abatement Notice EAC-23180, issued as a result of a previous non-compliance at Ihaia Road, Opunake. Reinspection found the system to be compliant with resource consent conditions and the abatement notice. Further enforcement action is being considered.							

Updates of Compliance Monitoring – Non-compliances from previous agendas

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
30 Mar 2022 Update	332122-117 ENF-23446	Annual Inspection	Non-compliance	Buckthought Kelvin Farm Limited (27865) Kelvin Buckthought (3903)	R2/3713-2		No Further Action/Costs Recovered

Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Skeet Road, Kapuni, Manaia. The consent holder took immediate steps to undertake works to ensure compliance. Reinspection the following day found that the system was compliant with resource consent conditions.

Compliance Monitoring – Non-compliances for the period 06 Apr 2022 to 17 May 2022

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
8 Apr 2022	332122-119 ENF-23452	Annual Inspection	Non-compliance	Shantilly Farms Limited (12564)	R2/0969-3.0	EAC-24516 - Abatement Notice	No Further Action At This Stage/Costs Recovered
Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions Main Road, Rahotu. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Reinspection was undertaken which found the farm was operating within resource consent conditions, and was compliant with one of the actions of the abatement notice. A further reinspection will be undertaken after 8 June 2022.							
8 Apr 2022	332122-118 ENF-23451	Annual Inspection	Non-compliance	Ngatitara 1 Limited (69526)	R2/1897-3.0	EAC-24515 - Abatement Notice	No Further Action
Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Main Road, Rahotu. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Reinspection was undertaken which found the farm was operating within resource consent conditions, and was compliant with one of the actions of the abatement notice. A further reinspection will be undertaken after 8 June 2022.							
8 Apr 2022	332122-124 ENF-23509	Annual Inspection	Non-compliance	Grant Clough (14937) Rocky Acres Trust (23569)	R2/1918-3.0	EAC-24560 - Infringement Notice ($750)	No Further Action/Costs Recovered
Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions and Abatement Notice EAC-23636, issued as a result of a previous non-compliance at a property at Waiteika Road, Opunake.							

Compliance Monitoring – Non-compliances for the period 06 Apr 2022 to 17 May 2022

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
12 Apr 2022	332122-123 ENF-23508	Annual Inspection	Non-compliance	Stephen Coomey (50274)	R2/2059-3.0		No Further Action/Costs Recovered
Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions on Opunake Road. Reinspection found that the resource conditions were being complied with.							
12 Apr 2022	332122-120 ENF-23464	Annual Inspection	Non-compliance	Richard van der Fits (34949)	R2/1565-4.0	EAC-24521 - Abatement Notice	No Further Action At This Stage/Costs Recovered
Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions Main Road, Rahotu. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Reinspection will be undertaken after 1 December 2022.							
13 Apr 2022	332122-121 ENF-23462	Annual Inspection	Non-compliance	Chard Family Trust (10817) Daryl Chard (69364) Janice Chard (69365)	R2/2649-3.0	EAC-24519 - Abatement Notice	No Further Action At This Stage/Costs Recovered
Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions Manihi Road, Rahotu. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Reinspection will be undertaken after 1 December 2022.							

Compliance Monitoring – Non-compliances for the period 06 Apr 2022 to 17 May 2022

Inspection Date	Job Number IRIS ID	Inspection Type	Compliance Status	Alleged Responsible Party	Consent Number	Action Taken	Recommendation
4 May 2022	332122-122 ENF-23517	Annual Inspection	Non-compliance	Ngatitu 22D Trust (2225) Te Oti Katene (51901)	R2/2065-3.0		Investigation Continuing
Comments: During the annual dairy inspection round it was found that the farm dairy effluent disposal system was not operating within resource consent conditions at Rowan Road, Kaponga. Enforcement action is being considered.							
4 May 2022	332122-125 ENF-23511	Annual Inspection	Non-compliance	JM & LH Sunman (22107) Sunman Farms Limited (34685)	R2/1605-3	EAC-24568 - Abatement Notice	No Further Action At This Stage/Costs Recovered
Comments: During analysis of samples (on 16 May 2022), taken during the annual dairy inspection round (on 4 May 2022), it was found that the farm dairy effluent oxidation pond disposal system was not operating within resource consent conditions at Rowan Road, Kaponga. An abatement notice was issued requiring works to be undertaken to the farm dairy effluent disposal system to ensure compliance with resource consent conditions. Reinspection will be undertaken after 20 June 2022.							

Date 7 June 2022

Subject: **Hearing Panels Decision on Airport Farm Trustee Limited**

Approved by: A D McLay, Director - Resource Management

S J Ruru, Chief Executive

Document: 3064613

Purpose

1. The purpose of this memorandum is to formally advise the Council of the decision of the Hearing Panel, which heard application 20-05262-3.0 by Airport Farm Trustee Limited to discharge emissions into the air from a free-range poultry farming operation.
2. The hearing panel comprised Mr P Milne (Chair) and Mr J Iseli and their decision is attached for Member's information. Mr Milne is a resource management lawyer with considerable experience and Mr Iseli is a consultant with considerable experience in air emissions and the chicken industry.
3. The Council delegated their decision on the application to the commissioners.

Recommendations

That the Taranaki Regional Council:

a) receives the memorandum *Hearing Panels Decision on Airport Farm Trustee Limited*

b) receives the Hearing Panel report and decision of the Hearing Panel that heard the application by Airport Farm Trustee Limited

c) notes the Hearing Panel have, under delegated authority from this Council, approved the resource consents sought

d) notes that the decision can be appealed within 15 working days and in law Airport Farm Trustee Limited can continue to operate under their existing consent until any appeals are resolved

Discussion

4. Airport Farm Trustee Ltd ('the applicant'/ 'AFT') lodged an application to discharge emissions into the air from a free range poultry farming operation housing a little over 60,000 birds. The application was for an 'early renewal' of an existing consent.

5. The Council's Consents Manager determined that the application be 'limited notified'. The notification provision of Rule 52 identified the owner/occupiers of five dwellings that were to be served notice of the application.
6. Submissions were lodged by all five parties. In some instances, submissions were supplemented by commentary from other neighbouring parties. The submitters wish to be heard in support of their submission.
7. As submissions were unable to be resolved during the pre-hearing process the application proceeded to a hearing, heard by Independent Commissioners on the 15th and 16th February 2022.
8. The decision was released on 11 May and can be appealed within 15 working days. In law Airport Farm Trustee Limited can continue to operate under their existing consent until any appeals are determined.

Financial considerations—LTP/Annual Plan

9. This memorandum and the associated recommendations are consistent with the Council's adopted Long-Term Plan and estimates. Any financial information included in this memorandum has been prepared in accordance with generally accepted accounting practice.

Policy considerations

10. This memorandum and the associated recommendations are consistent with the policy documents and positions adopted by this Council under various legislative frameworks including, but not restricted to, the *Local Government Act 2002*, the *Resource Management Act 1991* and the *Local Government Official Information and Meetings Act 1987*.

Iwi considerations

11. This memorandum and the associated recommendations are consistent with the Council's policy for the development of Māori capacity to contribute to decision-making processes (schedule 10 of the *Local Government Act 2002*) as outlined in the adopted long-term plan and/or annual plan. Similarly, iwi involvement in adopted work programmes has been recognised in the preparation of this memorandum.

Community considerations

12. This memorandum and the associated recommendations have considered the views of the community, interested and affected parties and those views have been recognised in the preparation of this memorandum.

Legal considerations

13. This memorandum and the associated recommendations comply with the appropriate statutory requirements imposed upon the Council.

Appendices/Attachments

Document 3059186: Decision - Airport Farm Trustee Limited Decision & Annexures 1-7

Taranaki Regional Council

Resource consent application 5262-3.0

IN THE MATTER OF	The Resource Management Act 1991
AND	
IN THE MATTER OF	
AN APPLICATION BY	Airport Farm Trustee Limited
FOR	A discharge permit for discharges to air

Decision of Independent Commissioners: Philip Milne and John Iseli

11 May 2022

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Annexure 5: **Summary of dispersion modelling**

Annexure 6: **Zoning of the site and surrounds within the NPDC operative plan**

Annexure 7: **Consent marked up to generally show areas amended by Commissioners**

A. THE APPLICATION AND PROPOSAL

1. This application is for a replacement consent for discharge to air of odour and dust from a housed broiler poultry farm at 58 Airport Drive, Bell Block, New Plymouth.

2. Airport Farm Trustee Ltd ('the Applicant'/ 'AFT') has lodged an application to discharge emissions into the air from a free range poultry farming operation currently housing up to 87,000 birds. The proposal is to reduce the number of birds to a maximum of approximately 61,000 (a 30% reduction in housed density from current and 36% from authorised).

3. The application is for an '*early renewal'* of an existing consent, which expires in 2026. However, the Applicant subsequently volunteered to surrender the existing consent from the time of commencement of this new consent if it is granted. Accordingly, the application can be regarded as an application for a replacement consent. The application is not made pursuant to section 124 of the RMA. That is relevant because we are not required to consider the value of the existing investment under section 104 (2A) or the matters under section 124B(4). Having said that, we do consider the value of the existing investment and the recent further investment in additional mitigation measures to be a relevant matter.

4. The current consent was issued in 2011 and expires in 2026. It authorises emissions from up to 94,000 birds housed permanently within sheds (i.e. not free-range). A consent was first issued for the site in January 1998. It was renewed on 26 September 2011. The property and consents were transferred to new owners in February 2012, and then to the current owners in October 2013. The application was silent as to term, but prior to the hearing, the Applicant has agreed to the term proposed by the Taranaki Regional Council (TRC/Regional Council) being until 1 June 2038.

5. Many of the submitters said they believed that there would be no application for renewal of the existing consent and indicated that this was why they had not complained prior to the notification of the application. It is clear that the current owner (from 2013) has never indicated that he would not seek a replacement consent. In our view, given the value of the investment and good state of the buildings and equipment, an application for a renewal was almost inevitable. Accordingly, we do not accept this misunderstanding as a valid reason for submitters not making complaints to the Regional Council or at least to the Applicant.

6. There was also some implicit criticism of the Applicant for making this application 5 years earlier than required. As we noted at the hearing, there is no basis for that criticism. The Applicant is entitled to order its own affairs. The Applicant is embarking on costly upgrades to its operation and is entitled to seek the certainty of a longer term consent. The Applicant also appears to be concerned that the TRC and NPDC planning framework may be less favourable by 2026. That is understandable.

7. The proposal is described in the Officers' report and the Applicant's evidence. The operation will continue to utilise the existing four sheds and will continue to follow the same bird rearing cycles as at present. The key changes from the existing operation are:

a) "*reduction in stocking density to 15 birds/m^2 of shed floor area, which will reduce the overall housing capacity of the operation to 61,020 birds …This represents a 36% reduction from the current capacity allowed under resource consent 5262-2.1 of 95,000 birds;"*
b) The adult birds will be able to free range outside of the sheds for part of the day during suitable conditions.
c) The side vent fans on each side of the sheds will be closed off and replaced with roof vents and extraction fans with 7m high stacks (above ground level) and misting devices.
d) Hot water boilers and a new DACS ventilation and heating system is being installed to reduce humidity in the sheds. This system will replace gas-fired heaters that contribute moisture from combustion to the internal shed environment.
e) The new ventilation system will result in a change from a negative air pressure environment to a balanced pressure environment.
f) Misting units have been installed at the shed doors to reduce emissions (primarily dust) during litter clean out operations.
g) Additional devices to monitor carbon dioxide and ammonia concentrations and climatic conditions within the sheds have been installed. These assist in monitoring both bird health and the condition of the litter, which has an impact on odour emissions.
h) Additional windbreaks along the northern side of the property, at the boundary with the McDonalds' property.
i) 400 Feijoa trees will be planted in the free range area to provide shade for the birds.

B. BACKGROUND

8. The background and consent history of the operation are set out in the Officers' Report. The key points are:

- The operation was established over 50 years ago.
- The first discharge to air consent was granted in January 1998.
- A renewal was granted in September 2011 with a term until June 2026.

  26. The parties notified were R & K Brown (40 Airport Drive), N Graham (1205 Devon Road), K & J McDonald* (62 Airport Drive), GA & JD Feaver (65 Airport Drive), NT & LF Hibell* (47 Airport Drive), KM & CR Jensen* (35 Airport Drive), and GN & MJ Struthers (29 Airport Drive). [* = submitter to 2021 application].*

  27. Four submissions were received. Two pre-hearing meetings were held between the Council, the applicant, and the submitters, in August-September 2011. As a result of an agreement on conditions reached during these meetings, the submitters withdrew their request to be heard.

- The consent was transferred to the current owner operator in February 2014

9. It is of note that the current consent was ultimately granted unopposed. It may be that the relatively short term of consent (15 years) was a factor in the decision of the 4 submitters to withdraw their requests for a hearing, however that is not relevant to our consideration.

10. The current application was notified on a limited basis pursuant to restricted discretionary rule 52 of the Regional Air Quality Plan. The decision to limited notify the application was subsequently the subject of an application for Judicial Review (JR). In any event the parties to the application for JR have agreed to our hearing proceeding on the basis that we will also consider informal submissions from some non-submitters who are party to the JR application.

11. The submitters to the application are:

- Kevin and Glenis McDonald (62 Airport Drive)
- Poppas Peppers (35 Airport Drive)
- Karen and Rod Brown (40 Airport Drive)
- Graham Elliott, Carla Williams, and Tenisha Elliott (76 Airport Drive)
- Neil and Lloma Hibell (47 Airport Drive)

12. The only additional "parties" to the application who we heard directly from were:

- Brent Dodunski, a trustee of P3 Development Trust, the owners of 32 Airport Drive
- Nigel Williams, 46 Airport Drive
- New Plymouth District Council

13. We note that, normally we would not be able to consider evidence and submissions from non-submitters. In the present case however, we were advised that TRC and the Applicant agreed to us hearing from these additional parties. As will become apparent, the evidence and submissions on behalf of NPDC was particularly relevant to the issue of duration.

14. We attach as **Annexure 2** a plan showing the location of nearby properties and dwellings with 400 metres (m) of the poultry farm. We attach as **Annexure 3,** a plan which shows the location of properties which are the subject of a no complaints covenant in favour of the Applicant. We cannot assume that there have been no adverse odour effects at some of these latter properties.

15. We heard from Mr Whiting as to how he has operated the farm since 2012. He also described the modifications he has recently made. We are satisfied that this operation is very well run and with the recent modifications now meets industry best practice. We are also satisfied that Mr Whiting will work with his neighbours to try to resolve any future odour issues.

C. THE OFFICERS' REPORT AND THE HEARING

16. The Officers' Report prepared by Mr Gary Bedford and Ms Jocelyne Allen is dated 24 January 2022 and was slightly amended on 25 January. They provided a supplementary report dated 11 February 2022.

17. The public hearing took place over the course of two days on 15 and 16 February 2022. We then adjourned the hearing to allow for further information requested by us during the hearing, to allow parties to comment on that further information and to receive the Applicant's written closing submissions. The latter were received as a further memorandum from Counsel for the Applicant on 27 March, and an additional

submission on 30 March. We closed the hearing on 1 April. We sought an extension of time from the Applicant to release our decision by 11 May 2021.

18. We visited some of the neighbouring properties on the morning of 16 February, including the inside of the McDonald dwelling and office/workshop at 62 Airport Drive. We visited the poultry farm on the afternoon of 16 February to observe the litter clean out operation (during a light to moderate westerly wind).

19. All parties were represented by legal counsel at the hearing as follows:

    a) Ms Booker for the Applicant

    b) Mr Conway for the TRC as advisor to the Panel

    c) Mr Grieve for the submitters and other parties except NPDC

    d) Ms Wallace for NPDC

20. The Applicant's evidence was pre circulated and comprised evidence from:

    - Mr Whiting, the owner operator and trustee of Airport Farms Limited.
    - Mr Pene, an air quality expert
    - Ms Ryan, an air quality expert in a peer review capacity
    - Mr McDean, a planner.

21. We heard from a number of submitters and other neighbours of their personal experience with odour and dust from the Farm. Some of those parties presented the results of odour diaries kept in recent months. We will discuss that evidence later in this decision.

22. The submitters called the following expert witnesses whose evidence was pre circulated.

    - Mr Twigley, planning
    - Mr Van Kekem, air quality
    - Mr Backshall, air quality.

23. New Plymouth District Council (NPDC) provided planning evidence from Ms Williams.

24. The submitters and related parties seek that consent be declined, or if granted that this be for a short term (not extending beyond 1 June 2026 when the existing consent expires).Those parties also seek that more stringent conditions, be included. We note that granting a consent until June 2026 would in effect result in us declining the application. That approach would also mean that the Applicant could opt to rely on the existing consent and the less stringent conditions which apply to that.

25. NPDC initially sought that if consent was granted, that it should only be until 2026. During the hearing it modified its stance to propose a consent duration until June 2030.

26. We were provided with helpful submissions by all counsel. Given the nature of the legal issues we probed a number of points with Counsel orally. We also requested copies of relevant case law.

27. We requested some additional evidence from the Applicant and NPDC to be provided after the public hearing and allowed the other parties with an opportunity to comment on this.

28. The legal submissions in reply included a volunteered proposed condition, to make the term of the consent contingent on the zoning of the site. Other parties commented on that proposal. We had some queries which we addressed in a Minute dated 24 March (attached as **Annexure 4**.) Counsel for the Applicant responded on 27 March with a slightly amended proposal. Counsel for the submitters filed a further Memorandum in response on 30 March 2022. The Applicant has not responded to the latter. We made another query of the Applicant on 26 April which was responded to on 27 April. The Applicant has agreed to an extension of time to 11 May for the issuing of this decision.

D. LEGAL AND PLANNING ISSUES

29. It became apparent that there are some key legal and planning issues which are disputed and which are relevant to how we consider this application. These are as follows:

a) Does the application come within rule 52 (restricted discretionary) or rule 54 (fully discretionary)?

b) If the application is within rule 54, would there be any additional relevant matters which we cannot consider under rule 52?

c) Should we consider the existing farm as being part of the existing environment?

d) Should we apply the so called permitted baseline?

e) Should we regard the deferred residential zoning in area Q3E (immediately to the west of Airport Drive) as part of the reasonably foreseeable future environment?

f) Should we regard the Future Urban Zone (area R) on the application site and other land to the east of Airport Drive as being part of the reasonably foreseeable future environment?

30. We now address each of these issues in turn.

a) Does the application come within rule 52 (restricted discretionary) or rule 54 (fully discretionary)?

31. Rule 52 of the Regional Air Quality Plan (RAQP) provides for the following as restricted discretionary activity.

Discharges of contaminants to air from intensive poultry farming when more than 30,000 poultry are kept at any one time, and where the poultry farm is an existing operation and a new consent is being applied for to replace or renew an existing consent.

Provided that: *the nature and scale of the effects of the activity are* ***unchanged from that of the existing consent that is to be replaced or renewed****.*

32. Mr Conway and Ms Booker submitted that the Regional Council was correct to have treated the application as coming within rule 52 rather than rule 54. Mr Grieve and Ms Wallace submitted to the contrary. We have concluded that rule 52 is applicable for the reasons advanced on behalf of the Applicant and Regional Council. In particular:

- The activity remains an intensive poultry farming operation and the application is for a replacement consent.
- The nature and scale of the odour and dust effects of the activity in relation to all submitters and other parties, will be less than those authorised by the existing consent.
- No additional persons will be affected in comparison to those affected by the existing consent.
- Although a literal reading of the word "unchanged" would suggest that the effects of the replacement activity must not be reduced from those authorised by the existing consent, that approach would run counter to the purpose of the legislation by discouraging additional mitigation.
- There is no "generally in accordance with" condition in the existing consent and therefore the change to a partially free range operation and other changes are not precluded under the current consent. (We note that these changes will overall, reduce the risk of odour effects.)
- We have concluded that the new free range part of the operation (which will be right up to the McDonald's boundary) is unlikely to cause any offensive or objectionable odour or dust on their property and so could occur under the existing consent. That conclusion is based on:
  - the evidence from the odour experts that free range operations are not usually a source of objectionable odour.
  - the proposal to maintain at least 70% vegetative cover in the free ranging area.
  - the proposal does not involve any feeding out to birds within the free range area.

b) If the application was within rule 54 would there be any additional relevant and material matters which we cannot consider under rule 52?

33. The focus of this hearing is on the "acceptability" of odour and dust emissions from the proposed activity after allowing for the changes proposed by the Applicant. That issue is relevant to whether we grant consent and if so for what duration and on what conditions.

34. In our view, the matters within our discretion under rule 52 and the additional matters brought in by section 104 and 105 of the RMA allow us to fully consider all relevant matters. In particular:

- The effects of the discharge activity on the environment (s 104)
- Relevant plan and policy statement provisions (s 104)
- Duration

- Monitoring
- Effects of odour and dust on amenity value
- The imposition of limits on the discharge
- Best practicable option to minimise adverse effects (including whether the proposal involved industry best practice)
- A review condition
- The buffer distance guidelines in appendix V of the plan
- The nature of the discharge (s 105)
- The sensitivity of the receiving environment (including the reasonably foreseeable future environment) (s 105).

35. None of the planning witnesses pointed to any other relevant matter which would be precluded under rule 52. Accordingly, in our view it would make no difference to our consideration and decision, whether the application is considered under rule 52 or rule 54. In particular, as discussed below, we can have regard to the NPDC zoning within the context of the likely increased sensitivity of the receiving environment during the proposed term of consent. That is a matter which is particularly relevant to the term of the consent and the Applicant's proposed "Augier" condition.

c) Should we consider the existing farm as being part of the existing environment?

36. The existing farm is part of the existing environment until June 2026. However, it is clear from the decision in *Port Gore Marine Farms v Marlborough DC,* that we should not regard the existing farm as being part of the existing environment as from 1 June 2026, because there can be no expectation of a consent renewal. Accordingly, we conclude; that we must approach the consideration of effects on the environment arising from the proposal, on the basis of considering the difference between the environment (beyond the property) from June 2026 with and without the poultry farm discharge.

37. In particular, we are required to have particular regard to the effect of the proposed discharge activity on the amenity values of the environment from 1 June 2026 as compared to the effects as they would be without the farm. All counsel agreed with this approach.

38. We note that the nature and effects of the existing operation provide a useful starting point for assessing the effects of the future operation. However, we need to take into account the reduction in potential effects arising from the changes now proposed and any additional conditions we decide to include.

39. Both the Applicant and Mr Bedford focussed on the reduced scale of the operation and additional mitigation as compared to the existing operation. That approach was useful, however we do need to be cautious since the degree of expected reduction in effects is largely based upon dispersion modelling which has some limitations (as noted by Messrs Van Kekem and Backshall).

40. We have also concluded that, the sensitivity of the receiving environment will increase during the proposed term of consent. That is relevant to the requirement for us to have particular regard to maintaining and enhancing amenity values within the future receiving environment indicated by the District Plan.

41. We have concluded that if we grant consent and the existing consent is surrendered (as is now proposed by the Applicant) the proposed operation will have significantly less adverse effects on the existing environment until 1 June 2026 as compared to the operation prior to the 2021/2022 upgrades.

42. Those reduced effects will continue beyond 1 June 2026, but the overall effects must be judged against the environment as it likely to be from then until the expiry of this new consent and excluding the effect of this consent from that future environment.

d) Should we apply the so called permitted baseline?

43. Section 104(2) of the RMA provides that:

When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.

44. Rule 52 of the RAQP permits discharge to air from small intensive poultry farming operations with bird numbers of up to 30,000 birds, subject to the discharge activity not giving rise to any objectionable or offensive odour beyond the property boundary.

45. If we were to apply the permitted baseline, then we would be comparing the additional discharge effects of the proposed operation with the effects of a smaller permitted operation. Neither the TRC nor the Applicant's assessments placed any reliance on the permitted baseline. For example, the Applicant's dispersion modelling focussed on the differences between the existing operation and the proposed operation. We did however request that the modelling be updated to include dispersion modelling of a 30,000 bird operation on the same site.

46. A comparison between the dispersion modelling of the permitted, existing and proposed scenarios is shown on the figures in **Annexure 5.** (We discuss this updated modelling later in our decision).

47. We have concluded that in the present case it is not appropriate to apply the permitted baseline beyond June 2026 for the following reasons:

- Rule 51 is somewhat outdated and seems to have been designed for the rural environment.
- The rule does not seem appropriate for discharges within or adjoining an urban area or proposed urban area.
- Rule 51 is not subject to the buffer distances in Appendix V which suggest a buffer of 100 m from the nearest offsite dwelling, 100 m from the nearest sensitive area and 50 m from any boundary. (We note that it is counter intuitive to have buffer distance guidelines applying to operations of under 30,000 birds, but not include those as a standard for the permitted activity.)

- As at June 2026 we think that it is fanciful or at least unlikely that a poultry farm would establish as a *new* activity on this site given the future urban zoning on the site and the deferred residential zoning over the road.
- We doubt that it would be economic to establish a new poultry farm of 30,000 birds on the site.
- The rule does not take into account the increased sensitivity of this receiving environment which will, in our view, occur sometime beyond 2026.

48. For the reasons outlined above, we have decided not to apply the permitted baseline beyond 1 June 2026.

49. We have decided that the permission in rule 51 is relevant to our consideration of the situation prior to area Q3E being active residential. In particular, rule 51 is indicative of a policy which allows some degree of detraction from amenity values as a result of odour in the current environment. Accordingly, we have had regard to the permitted baseline for the period up until 1 June 2026.

e) Should we regard the deferred residential zoning in area Q3E (to the west of Airport Drive) as being part of the reasonably foreseeable future environment?

50. This question is critical to our consideration of the application and to the duration of consent. We first outline the factual context and then consider the legal position.

Factual context

51. Ms Williams, a planner with NPDC, provided evidence regarding the zoning of the area. As shown on **Annexure 6**, an extensive area of land (area Q) immediately to the west of Airport Drive was rezoned as *Residential A* in the operative New Plymouth District Plan in 2014. The pink area (3E) on the plan (which extends North from the intersection of Airport Drive with SH 3) is zoned residential A but the zoning will not become "live" until such time as various roading work along Airport Drive is complete and area R (which is on the eastern side of Airport Drive) is rezoned from Future Urban Zone to active urban zoning. In the meantime, there is a prohibition on residential development within part 3E of area Q. Area Q3E extends over all of the properties along the western side of Airport Drive from SH3 up to and including 73 Airport Drive.

52. The roading plans are well advanced and the roading upgrade designation has been confirmed. Accordingly, it seems likely that the roading works will be completed within the next few years.

53. In terms of the second pre-condition for the live zoning of Q3E, as yet there is no proposed rezoning of area R from future urban to active urban. The NPDC is currently in the process of hearing submissions on its Proposed District Plan. The Proposed Plan does not include rezoning of area R as active urban. We see this as a strong indication that the NPDC is in no great hurry to have area R developed or area Q3E become live residential.

54. Some submissions on the Proposed Plan are seeking rezoning of area R and others are opposing that. Decisions are not due until later this year. Accordingly, we rely on the position as it is currently, with no active rezoning of area R being proposed by Council.

55. We sought further clarification of these matters on 28 February by requesting the following:

a) A copy of the proposed plan zoning for areas R and Q

b) A copy of any submissions in relation to area R

c) A copy of any officer response to those submissions.

d) A copy of the Hearing Panel's interim response to those submissions (as referred to by Ms Williams at the hearing).

56. A Memorandum to the PDP Hearings Panel from counsel for NPDC explains the situation as follows:

> 2.1 The area known as "Area R" is zoned in the PDP as a Special Purpose-Future Urban Zone. As noted in the overview to the zone chapter, this zone applies to land that has been identified as being suitable for urbanisation in the future. When the land is ready to be developed for urban purposes, it will be re-zoned to enable that to occur (e.g. to a residential or industrial zone) and an approved structure plan will be required before it can be developed. Until such time, land within this zone may be used for a range of agricultural, pastoral and horticultural activities, but other types of activities are to be managed and/or avoided to ensure the activities occurring within the zone are compatible with and do not compromise potential future urban uses. In the notified PDP, free-range poultry farming falls under the definition of rural
>
> industry (see the definition nesting tables) and is a non-complying activity in the Future Urban Zone. As such, if the notified rules in the PDP come into effect, it would be a non-complying activity for the existing intensive indoor poultry farm to become a free-range poultry farm.
>
> 2.2.The area known as "Area Q" is zoned in the notified PDP as General Residential and itis subject to a structure plan overlay titled "DEV 1–Bell Block Area Q Structure Plan Development Area" (the "Area Q Structure Plan"). The rules in the Area Q Structure Plan Development Area apply in addition to the underlying zone rules. Area Q provides for three stages of development. The first two stages comprise 594feasible lots on a total of 85 hectares and Stage 3E will create an additional 155 potential lots totalling 22 hectares. In the notified PDP, residential subdivision and/or residential development in the Stage 3Earea in accordance with the Area Q Structure Plan and the Residential Zone rules is a prohibited activity until Area R (FUZ) has been rezoned to an urban zone through a statutory plan change process and released upon completion of the realignment of Airport Drive. *(emphasis added)*

57. The Memorandum then discusses the officers report on the PDP.

> In section 42A Report in relation to the Area Q Structure Plan the reporting planner recommends that residential subdivision and/or residential development in the Stage 3E area in accordance with the Area Q Structure Plan and the Residential Zone rules should become a non-complying activity until Area R (FUZ) has been rezoned to an urban zone through a statutory plan change process and released upon completion of the realignment of Airport Drive. The implication of this is that if this recommendation is accepted by the Hearings Panel, consent applications to establish residential development directly across the road from the Airport Drive Poultry Farm may be made as soon as the PDP comes into effect (without the need for Area R to have been rezoned). *emphasis added*

> The section 42A Report in relation to the Future Urban Zone2 recommends that Intensive Indoor Primary Production be classified a non-complying activity (see new rule FUZ-R20)3. At paragraph 145 of the report it states: "Intensive farming can often have off-site odour effects which require large buffer areas to mitigate adverse effects and these activities are not compatible with future urbanisation. Future urbanisation and the introduction of residential housing and living activities around intensive farming activities is likely to lead to reverse sensitivity effects and this will compromise the future intent and purpose of the FUZ to provide for urbanisation within the identified FUZ areas."
>
> (emphasis added)

58. In summary, residential development in area Q3E is currently prohibited but may become non-complying before it becomes permitted. In either event, permitted residential development depends upon the rezoning of area R.

59. Leaving aside the uncertainties arising from the Proposed Plan process, the current situation is that area Q 3E is already zoned as Residential A and that zoning will automatically become live once area R is rezoned as active urban. Given that area R is already zoned as future urban and given that the roading work is designated and is likely to be completed within the next few years, we are of the view that it is inevitable that area R will be rezoned well before 1 June 2038 (the proposed expiry of the consent in the Officers' Report).

Case law regarding the reasonably foreseeable future environment

60. We turn now to deal with the case law regarding consideration of the reasonably foreseeable future environment. The leading authority is the Court of Appeal decision in *Queenstown Lakes District Council v Hawthorn Estate Ltd.* That decision is authority that a decision maker in relation to a resource consent application is required to consider the future state of the environment by reference to activities which are permitted in the relevant plans or which can be carried out pursuant to granted but unimplemented resource consents.

> [57] In summary, all of the provisions of the Act to which we have referred lead to the conclusion that when considering the actual and potential effects on the environment of allowing an activity, it is permissible, and will often be desirable or even necessary, for the consent authority to consider the future state of the environment, on which such effects will occur.

61. Counsel for the submitters and for NPDC relied on the real world evaluative approach referred to in subsequent decisions in *Living Earth Limited v RC ENVC A126/06* and *Queenstown Central Ltd v Queenstown Lakes DC [2013]*:

62. We posed the following questions to Counsel following the hearing.

    (a) Adopting a "real world" view, it is "reasonably foreseeable" that New Plymouth District Council (NPDC) will zone area Q3E as residential A within an eight-year consent period?

    (b) Should "reasonably foreseeable" be regarded as more likely than not?

63. Mr Grieve responded on behalf of the submitters and suggested (based on the High Court Decision in *RJ Davidson Trust v Marlborough District Council*) that:

> *"Any findings (or prediction) as to any future position, such as rezoning, is a matter of judgement to be made on the basis of findings of fact that have been made. In other words there is no standard of proof (to the balance of probabilities) or otherwise to be applied to a finding (prediction) about a future position."*

64. He submitted that "*as a matter of judgement"* based on evidence we could conclude that area Q3E *would be* zoned as live Residential A within the next 4 years rather than the 8 years suggested by the NPDC.

65. In our view, the passages from the *Davidson* decision which are relied upon by Mr Grieve, do not support his submission that the prediction of the future environment is a matter of judgement based upon the facts. We prefer the submissions of Mr Conway in this regard. In our view the case law supports the view that we must avoid speculation. It seems to us that we need to be satisfied that residential zoning of area Q3E will be *more likely than not* be "live" within a particular time frame, in order to include that live zoning within the future environment.

66. Mr Conway (counsel for TRC) provided helpful advice to us in his closing submissions. He sounded a note of caution regard the so called real world approach and referred to two decisions where that approach has been qualified or distinguished.

> *Speargrass Holdings Ltd v FPM and DMJ Brandenburg (As trustees of the Flax Trust) identifies Queenstown Central as an example of "a "real world" approach to analysis, without artificial assumptions creating an artificial future environment."*

67. He also referred to the Environment Court decision in *Saddle Views Estate Ltd v Dunedin City Council*, which suggested that the real world approach to the future environment needs to be factually based.

> *2.5 The Court in Saddle Views Estate appears to have had particular concern with placing weight on a plan change that is still subject to challenge. It also cautioned against viewing one type of future activity "as being the likely future environment" where the objectives and policies contemplate different activities (e.g. both rural and rural-residential activities).*
>
> *[20] Recently, in Far North District Council v Te Runanga-A-Iwi O Ngati Kahu, the Court of Appeal stated:*
> *In its plain meaning and in its context, we are satisfied that "the environment" necessarily imports a degree of futurity. [Emphasis added].*
> *The cautious reference to a "degree of futurity" suggests that the Court of Appeal is anxious for consent authorities, when considering applications for resource consents, to avoid speculating too widely about the future environmental setting of each case.*

68. Mr Conway then advised us regarding the "likelihood".

> *2.10 In* Hawthorn *the Court of Appeal's overall concern was with prediction of "the likely future state of the environment" (emphasis added). To carry out this prediction in relation to potential future activities under a potential future zoning change requires a two step inquiry, involving consideration of the likelihood of the zoning change, followed by consideration of the likelihood that any permitted activities that would be enabled by such a plan change would in fact be carried out.*
>
> *2.11 That is, an assessment would need to be made of the overall likelihood that: (a) the rezoning would occur; and then (b) the rezoning would be followed by the utilisation of the resulting permitted activity rules. The likely timing of such steps would also require assessment.*

> *2.12 Given the "more likely than not" test has been accepted by the Environment Court for determining whether unimplemented resource consents will be given effect to, there appears to be a reasonable basis to apply the same test to determining other elements of the likely future environment, including the carrying out of future permitted activities as foreshadowed by district plan objectives and policies.*
>
> *2.13 Based on the Court of Appeal authority discussed in the passages of* Saddle Views Estate *quoted above, the likelihood of future activities under future zonings should be determined with reference to objectives and policies that are not subject to challenge, and without favouring one foreshadowed activity over others.*

69. We agree with those submissions.

70. Counsel for the Applicant responded to our questions as follows:

> *12. It is the Applicant's case that* Hawthorn *should be duly applied to the Application, and any departing from this to create a future environment which includes residential activity is unduly speculative and uncertain, especially due to no certainty of timing or location for future residential activity being able to be provided by NPDC. Ms Williams in her evidence provides for the remainder of Area Q to be developed and Area R developed in the long term (10 plus years).*
>
> *.*
>
> *13 The Court of Appeal in* Hawthorn *did not consider the effects of resource consents, that might in future be applied for and granted, should be legitimate considerations when considering the likely future state of the environment. No additional residential dwellings can be constructed in proximity to the farm without a fully discretionary activity in in the Future Urban Zone, and no resource consent can be applied for in Area Q Stage 3E under the operative District Plan.*
>
> *It is submitted, the reasonably foreseeable future environment must be realistically and practically assessed. As the Court of Appeal explained in Hawthorn there are limits to the enquiry into the future state of the environment:*
>
> > *... In our view, the word "environment" embraces the future state of the environment as it might be modified by the utilisation of rights to carry out permitted activity under a district plan. It also includes the environment as it might be modified by the implementation of resource consents which have been granted at the time a particular application is considered, where it appears likely that those resource consents will be implemented. We think Fogarty J erred [in the High Court] when he suggested that the effects of resource consents that might in future be made should be brought to account in considering the likely future state of the environment. We think the legitimate considerations should be limited to those that we have just expressed.* (at para 84)

> Queenstown Central Ltd *has subsequently been distinguished and the higher authority of Hawthorn has been applied. For example, the Environment Court in* Saddle Views Estate Ltd v Dunedin City Council *refers to the Queenstown Central Ltd (rather vague) concept of a "real world" analysis when considering the "environment". The Court stated its uncertainty with the approach and preferred the higher authority on the meaning of the "environment" in* Hawthorn*, and recorded its understanding that finding the existing and predicting the future state of the environmental setting of a proposal was a factual matter, not the exercise of a discretion.*

71. Ms Booker submitted that:

> *(Area Q), Stage 3E: urban residential type subdivision and development is a prohibited activity until Area R is rezoned to an urban zoning through a statutory plan change process and released upon completion of the realignment of Airport Drive. Any objectives and policies relating to residential development in these areas are not supported by rules giving precise effect to them (i.e. no residential activity is actually allowed), and therefore it is not appropriate to consider the operative plan objectives and policies as occurred in Queenstown Central Ltd.*
>
> *21. It is submitted, there was no evidence presented through the course of this process which credibly confirms where and how residential activity will be located, and that it is "reasonable foreseeable" that this would occur within 8 years or any other set later date.*
>
> *22. For comprehensive residential activity to occur in Residential A, Area Q, Stage 3E requires: the settling of provisions relating to the General Residential Zone and in relation to Area Q Stage 3E through the PDP, a further plan change process which either lifts the requirement to rezone Area R or actually rezones Area R (yet to be planned), a subdivision application, and appropriate infrastructure to enable construction of residential dwellings. Future development aspirations of the submitter neighbours is not a relevant consideration when plans do not allow development.*
>
> *23 Stage 3E is locked up, and contingent on a number of processes which include the NPDC changing the zoning of the Application Site. If you are to apply a "real world" view, then this is it. Any other consideration is unduly speculative.*

72. We accept that identifying the reasonably foreseeable future environment requires a factual assessment rather than the exercise of a discretion or speculation. We accept that the residential development of area Q3E is not currently permitted and there are no unimplemented consents for such development, nor can such applications currently be made. We accept that the future development aspirations of the submitter neighbours are not a relevant consideration when plans do not allow development.

73. Adopting a strict approach to para 84 of Hawthorne quoted above, we would need to assume that area Q3E will remain zoned as deferred residential with residential development prohibited or non-complying for the proposed term of consent.

74. We consider however, that such an approach would be “unrealistic” given that area Q3E is already zoned as residential. Once the roading upgrade has occurred NPDC will be obliged to proceed with a plan change to make the Future Urban Zone in area R live and the residential zoning in Q3E will then become live. The form and precise timing of urban zoning in area R is speculative, however it seems highly likely that some or all of area R will become live urban within 8 years. That is consistent with the further evidence of Ms Williams and submissions on behalf of NPDC.

75. On the other hand, we do not agree with Mr Grieve’s submission, that we have evidence that area Q3E “*will be”* zoned live residential within the next 4 years rather than 8 years as suggested by NPDC. That is inconsistent with New Plymouth District Council’s position at the hearing and with the current state of its Proposed District Plan. We are unable to conclude that such an outcome is likely.

76. We have noted that the Council has not advanced the current zoning in the Proposed District Plan. We take that as a clear indication that the Council has not prioritised the live urban zoning of area R and therefore the live residential zoning of area Q3E. The NPDC officers report to the PDP hearing proposed that residential activity in Q3E change from prohibited to non-complying. We cannot speculate on what the Independent Commissioners may decide in response to submissions on the Proposed District Plan.

77. We accept that predicting when the urban zoning of area R will become live and with it the residential zoning of Q3E, requires some degree of judgement. However, we do not agree with Ms Booker’s submission that:

> *…there was no evidence presented through the course of this process which credibly confirms where and how residential activity will be located, and that it is "reasonable foreseeable" that this would occur within 8 years or any other set later date.*

78. In summary, we have concluded based on the operative plan and proposed plan provisions, and the evidence of Ms Williams for NPDC, that there is a high likelihood that area Q3E will be zoned as live residential within 8 years. This may occur earlier as a result of decisions on submissions on the Proposed Plan or as a result of the Council moving quickly with a variation or plan change, however those are more uncertain scenarios.

79. We have concluded that a *likely* scenario, is that the roading upgrade will be completed within the next 2-4 years and a Plan Change will be introduced within 3-5 years to make the Future Urban Zone in area R live and that this will likely be operative within 6-8 years. That scenario is consistent with the objectives, policies and methods in the operative and proposed plans and with the added urgency which has now been accorded at a national level, to planning for urban development.

80. We accept that the necessary Plan Change process might occur more rapidly and could be operative within say 5 years. However, we are unable to conclude that this a likely scenario. In any event, even if this occurred, we doubt that new residential development would be occupied within 8 years.

81. We note Ms Booker/s comment that:

> *There remains considerable uncertainty about the location of any future residential activity in Stage 3E. It is also noted for completeness that the area of Hibell's land bordering Airport Drive (within the modelled 3 Odour Units (OU) and 2 OU contour for the proposal) has been identified as a possible Business C Commercial Area within the Bell Block Area Q Structure Plan (within the Residential A zone)19 . A large area of other land within the conservatively modelled 2 OU for the proposal is subject to a no complaints covenant.*
>
> *…..It is noted that Tegel's submission on the PDP seeks to include a rule (Minimum building setbacks) in the General Residential Zone (of which Area Q is zoned, subject to the structure plan) which requires a setback of 400m from established poultry farms for sensitive activities (such as residential activities). Should this rule be confirmed, residential activity within Area Q would be required to be set back 400m from the poultry farm (whether that is a permitted 30,000 bird poultry farm or the current proposal) and would apply if the notified prohibited activity status for residential activity in Area Q is lifted by a future plan change of Area R. This rule would apply to a large portion of Area Q, Stage 3E.*

82. In terms of the Operative Plan provisions, we do not agree that there is considerable uncertainty as to the location of future residential activity within most of Q3E. We accept that there is some uncertainty regarding whether the Hibell and/or Popper's Peppers land will remain within the residential zone, however the same uncertainty does not apply to land closer to the farm.

83. We do not need to speculate about the outcome of the Tegel submission (which seems to be directed at protecting the future operation of the poultry farm.)

84. Finally, we note that in our view, the no complaints covenants secured by the Applicant (over 7 properties in area Q3E and 4 within area R) are irrelevant to our prediction of the future environment.

f) Should we regard the Future Urban Zone (area R) on the application site and other land to the east of Airport Drive as being part of the reasonably foreseeable future environment?

85. Area R is already zoned as future urban. The only uncertainty is <u>when</u> that indicative zoning will become active and whether it will be residential, commercial, industrial or mixed use zoning. (There was some suggestion from Ms Williams that it may be zoned "employment"). The Proposed District Plan does not currently propose that area R be rezoned as active urban. Nor is that proposed in the section 42A report.

86. Notwithstanding this, we have concluded that it is reasonably foreseeable (likely) that area R will be rezoned for active urban purposes by 2030. Such zoning would not necessarily be incompatible with the ongoing operation of the poultry farm. However depending upon the nature of adjoining uses, there may be an increased sensitivity to odour and in particular from clean out activity.

E. SENSITIVITY OF THE RECEIVING ENVIRONMENT AND PRIOR ODOUR ISSUES

Existing sensitivity

87. The local receiving environment is moderately densely populated for a rural area and includes several lifestyle properties. Mr Grieve submitted that the existing area is already more densely populated than a typical rural environment. We agree.

88. The Officers' Report notes that there are 16 houses located within 300 m of the poultry sheds. (300 m being the guideline buffer zone within Appendix V of the AQP.).

89. We have attached as **Annexure 7** a plan showing nearby dwellings. We agree with Mr Grieve (based on the evidence of Mr Van Kekem) that when having regard to the amenity effects of the proposal we should consider not only the dwelling but the "curtilage" of the dwellings. In particular, we should consider the situation within any outside dining or relaxation areas

90. The most sensitive receptor is the McDonald property which includes the McDonald dwelling and a separate office and workshop. The driveway boundary of the property at its closest point is approximately 30 m from the nearest shed and 40 m from the nearest roof ventilator. The dwelling is approximately 55 m from the nearest current side vent (which is being decommissioned) and will be 100 m from the nearest roof ventilator. The dwelling is two storey and accordingly may still be affected by the odour plume from the new elevated roof vents.

91. There is a reasonably tall Macrocarpa shelter belt on the McDonald's side of the boundary with the AFL property. The proposed free range area is immediately alongside this boundary which has the drive beside it. The evidence was that this part of the operation is unlikely to generate much if any noticeable odour, provided at least 70% grass cover is maintained.

92. The dispersion modelling does not predict the influence of the shelter belt in this scenario. We conclude that at times, the shelter belt may be beneficial by increasing turbulence and at times it may exacerbate odour by reducing wind speed or causing curl over effects. Updates to the modelling were agreed by the experts to better account for vegetation around the site (noting that the modelling does not assess emissions from the clean out operations) however those adjustments cannot predict the effect of the shelter belt between the operation and the McDonalds.

93. Meteorological data from New Plymouth Airport has been referenced in the Applicant's assessment and the Officers' Report. The wind roses show that westerly winds predominate, but that light winds from the south to southeast occur for approximately 13% of the time. Such light wind conditions result in poor odour dispersion and blow from the farm towards the nearest residence on the McDonald's property at 62 Airport Drive. It was noted that the Airport wind readings may be slightly higher than at the site.

94. The dispersion modelling shows the predicted odour concentrations at neighbouring properties which may be affected by emissions from the sidewall vents (existing discharge) and the roof vents (proposed discharge). The results of the updated modelling provided with the applicant's reply are shown in **Annexure 5**.

95. During the hearing Mr Whiting referred to a no complaints covenant. Following the hearing we requested details of any such covenants in favour of the Applicant. The Applicant provided us with a map (attached as **Annexure 3**) which showed that it has secured no complaints covenants over 7 properties in area Q3E and 4 within area R.

96. Ms Booking in her reply noted that:

> *A large area of other land within the conservatively modelled 2 OU for the proposal is subject to a no complaints covenant.*

97. In our view, the no complaints covenants are irrelevant to our assessment of the effects of the proposal. We are required to consider the effects of the proposal on the environment irrespective of such private arrangements unless those arrangements are reflected in a formal written approval of the application (these are not).

The sensitivity of the future receiving environment

98. The nature of the future receiving environment is expected to change rapidly from 2030 or earlier, once area R and area Q (3E) start to be become developed. As discussed above, area Q 3E on the western side of Airport Drive is zoned as residential A but that zoning is not "active". We accept that this increases the degree of sensitivity of the existing receiving environment. That is because there is already an expectation that this area will be able to be developed for residential purposes in the near future.

99. The air quality experts indicated that an odour modelling guideline of 1-2 OU/m^3 (99.5th percentile, 1 hour average) would be appropriate for a residential area. The modelling of the proposed discharge, as summarised in **Annexure 5 (figure 3)**, indicates that some of area Q3E is predicted to be above a $2OU/m^3$ guideline. That area includes land owned by the Hibells and at least 4 other parties who have not submitted on the application.

100. We accept that the continued existence of the poultry farm may have some implications for the value of the land within area Q3E before the zoning becomes live. However, effects on value are not a directly relevant matter.

101. We have concluded that area Q3E is likely to be zoned for live residential development before June 2030. Once the zoning is live, the sensitivity of the receiving environment will increase and will then increase again once residential buildings are occupied.

102. The dispersion modelling suggests that the residents of some of the existing and new dwellings within area Q3E would be subject to a greater degree of odour than is considered acceptable in a residential area (we discuss this later in our decision).

F. THE ENVIRONMENTAL PERFORMANCE OF THE EXISTING OPERATION

103. The existing consent contains a condition requiring that the activity not give rise to *offensive or objectionable odours* beyond the boundary of the site. We note that *compliance monitoring* by the TRC is focussed on whether or not this condition is being complied with, rather than with the question of whether the discharges result in a detraction from amenity values. In essence, the RAQP and the resource

consent allow for some level of detraction from the amenity values. They do not require that there be no odour from poultry farms.

104. The Council officers assess compliance based on the FIDOL factors. Frequency, Intensity, Duration, Offensiveness (character) and Location (sensitivity).

Complaints history and compliance monitoring

105. The complaint history in relation to the operation is of limited assistance in relation to the future day to day operation of the facility, because of the various changes which have been or will be implemented under the consent proposal. The recent history is however of some relevance to the clean out operation which is subject to less change.

106. The Officers' Report has included a comprehensive summary of the complaints record for the site and compliance monitoring undertaken by the Council. There were no complaints made to the Council relating to the current consent and operator, prior to notification of the application. There were a significant number of complaints made after the notification of the application, however the compliance officers did not identify any non-compliance in relation to these complaints.

107. Regional Council officers monitor the odour condition based on the FIDOL factors. The monitoring of complaints to date has focussed on Intensity and Offensiveness, rather than frequency and duration. This approach may under report lower level chronic odour issues and detraction from amenity values. However, we also note that frequency and duration cannot be monitored in the absence of timely complaints.

108. We note that on a few occasions the source of the reported odour was traced back to a source other than the poultry farm (such as spreading of manure on paddocks).

109. The submitters and other participants who have complained, gave various explanations for not having complained until recently. In summary those explanations were:

- That they had not expected an application for renewal
- They are not "complainers" and/or prefer to raise matter directly with the operator[1]

110. In relation to the first matter, there was no basis for neighbours to expect that there would be no application for renewal. In any event, even if that had been a reasonable expectation, that does not explain why there were no complaints prior to the current application being made. In relation to the second matter, the Regional Council cannot be expected to investigate in the absence of complaints and the operator cannot be expect to respond unless promptly informed of the issue.

111. We are required to make our decision based on evidence and the evidence is that there is has been no complaint history for the first 8 years of this operator's activity. We cannot "assume" that there were unreported issues prior to this application being lodged. Nor can we treat subsequent unverified complaints as being evidence of non-compliance with the consent.

[1] For example, the McDonalds stated that they preferred to discuss odour issues directly with Mr Whiting, rather than complain to the Council.

112. We have no reason to dismiss the concerns of the submitters and other complainants. However, we are required to be cautious in the circumstances where complaints have been limited to the period after the application was lodged and have not been independently verified.

113. Notwithstanding these comments, we accept that the lack of any long term complaints and the lack of any verified complaints does not necessarily mean that there has not been any objectionable odour from the operation. The dispersion modelling for the current operation, discussed below, suggests that the existing discharge may well have caused chronic odour effects for at least two nearby properties.

114. Council officers have visited the property in response to complaints, on multiple occasions between September 2021 and the hearing. The officers did not identify any “offensive or objectionable odour” beyond the boundary of the site (in breach of the current consent conditions) on any of these individual occasions. However, we note that officers appeared to be focussed on compliance for single odour events rather than the frequency or duration of odour events that contribute to a chronic adverse odour effect. (An odour which is not classified as offensive for a brief period may be offensive if it occurs frequently resulting in a chronic adverse odour effect).

115. Numerous visits to the site were undertaken by Council staff in recent months, including during shed clean outs. Mr Bedford has detailed the outcome of these visits in the Officers’ Report. At times odour was identified at the property boundary. That is unsurprising given the close proximity of the boundary to the side wall vents of the sheds. The officers did not determine a breach of the “no offensive or objectionable odour” condition of the current consent. On one occasion, a “weak to distinct” odour was detected at 110 m downwind of the boundary.

116. Mr Pene stated that on one occasion, independent odour monitoring was undertaken by his colleague, Ms Michelle Dyer, who detected “weak to very weak” odour at a location 320-340 m downwind of the discharge. Mr Backshall observed “weak to distinct odour from shed ventilation” at the McDonald property on the afternoon of 14 February 2022.

117. There was some criticism from submitters, of the Regional Council for not having attended within hours of the reported incident. However, many of the alleged incidents were not reported the same day as they occurred. There were also a number of claimed incidents which were not reported at all. (The Regional Council did advise neighbours in August 2021 of the need to make telephone complaints in a timely manner rather than via after the event emails.)

118. There was also some criticism from submitters of the fact that on most occasions the Regional Council officers did not visit the properties from which the complaint originated. The current consent condition requires that there be no offensive or objectionable odour beyond the boundary of the poultry farm site. The Regional Council officers have understandably taken the approach that if there is no objectionable odour within the boundary that it is unlikely that there would be any beyond the boundary. Within that context, they have focussed on the wall vents and clean out operations.

119. We do however note, that in the future, with the roof vents now operational, any monitoring of day to day operation will need to be at the receiving location or at least at a height which intersects the plume. It would also be desirable for officers to visit the property of any complainant.

120. Ms Ryan's review of the Applicant's odour assessment concluded that, given the current wall fan configuration, presence of shelter belts and close proximity of neighbours, there is potential for chronic odour effects to occur from the existing discharge. She considered that "*odour would be detectable off-site intermittently, particularly along the northwest boundary during peak of cycle."* That boundary is shared with the McDonald's property.

121. Ms Ryan noted that the applicant's odour assessment had not used some recommended odour assessment tools for existing discharges, notably consultation with potentially affected neighbours and community odour surveys or diaries. However, she pointed out that notification of the application had provided the opportunity for information to be obtained from neighbouring residents.

122. We note that there are a number of neighbours who have not submitted or otherwise taken part in the hearing (many of whom are subject to "no complaints" covenants). We are required to take into account the effects on all properties unless the owner and occupier have given their formal written approval. Accordingly, we have not assumed that the lack of submission from these persons means that there is no effect on at their property. [2]

The 2022 odour diaries

123. Mr Van Kekem, the odour expert engaged by the submitters, initiated an odour diary scheme which commenced in January 2022. That information was presented to us in evidence and was supplemented during the hearing. We accept that odour diaries are a useful tool to identify potential issues. However, in the present instance, the diaries do not relate to the period prior to the application being made and did not commence until well after the application was lodged. Significantly, a number of the incidents referred to were not reported to the Regional Council or were reported too late to allow verification.

124. The odour diary information was presented in submissions from Glenis McDonald, Karen Brown, Lloma Hibell and Brent Dodunski. We questioned these parties regarding their experience of odour and the detail contained in their odour diary records. The information from Glenis McDonald and verbal comments from Kevin McDonald indicated that they have experienced odour from the poultry farm on a frequent basis, often during several days per week. That is not surprising given the close proximity of the house (approximately 55 m from the sheds) and Mr McDonald's office (40 m from the sheds) and the prevalence of southeast to southwest winds that can transport odour to these locations.

125. The odour diary information from other submitters indicated that they have also been affected by odour from the poultry farm at times, albeit at a lesser frequency than the McDonalds. This information indicates that, up to a distance of approximately 300 m from the farm, residents have reportedly experienced odour at times when they are downwind of the discharge. Ms Brown and Ms Jensen-Gorrie

[2] See Annexure 3.

(on behalf of Poppas Peppers 2009 Limited) referred to odour experienced during north-easterly wind conditions on at least a monthly basis on average. The diary of Ms Hibell indicated odour of varying strength experienced relatively frequently when easterly winds prevail.

126. The applicant's reply included information from Mr Whiting that correlated odour recorded in submitter's diaries with wind data from New Plymouth Airport and records of farm activities. Mr Whiting concluded that approximately 44% of the odour diary entries were not aligned with conditions conducive to odour propagation (either the address where odour was recorded was not downwind of the poultry farm or the event did not coincide with odour generating activity at the farm).

127. We have decided to place limited weight on the odour correlation analysis provided by Mr Whiting, who does not have expertise in this field. There are difficulties caused by the fickle nature of wind direction data (noting spatial separation of the airport from the farm and the effect of shelter belts around the site), particularly at lower wind speeds. Further, we note that some odour is generated during the first 21 days of the rearing cycle (albeit at a lesser rate) and the assumption that odour emissions are negligible during this period is somewhat arbitrary.

128. We note that recorded odour events in the diaries, were aligned with wind directions and likely emissions from the site on numerous occasions. Given the nature of the existing discharge via sidewall vents (resulting in poor dispersion) the close proximity of neighbouring dwellings (particularly at the McDonald property) and the nature of shed clean out operations, that result is unsurprising. It is also consistent with the predictions of updated dispersion modelling of the existing discharge provided by Mr Pene with the applicant's reply.

129. We accept that the incidents reported by neighbouring residents regarding odour from the existing discharge are largely consistent with wind conditions and operations. We further note that buffer distance guidance for poultry farms indicates that a degree of odour impact is possible at the location of these dwellings.

130. We have insufficient evidence to be able to verify the intensity or offensiveness of odours reported by neighbours for the following reasons:

    a) None of the complaints have been verified as being offensive or objectionable by TRC officers.

    b) There were almost no complaints made until the application was notified.

    c) The vast majority of events were not reported to the TRC officers in sufficient time for them to be able to investigate.

    d) Some of the reported events were shown to relate to other sources.

    e) The odour diaries and have only been kept since January 2022 and responses may have been influenced by the imminent hearing of the application.

    f) There is of necessity a degree of subjectivity in these reports. Mr Van Kekem did not have an opportunity to confirm and calibrate these reports.

    g) The residents do not have "calibrated noses" and their understanding of the scoring system is unclear.

h) It is possible, that the imminent hearing, along with the context of this application (including the "expectation" that there would not be an application for renewal, and the recent rezoning of the area Q and R) may have "sensitised" residents.

Odour modelling of the existing discharge

131. We requested odour dispersion modelling results for the existing discharge configuration from Mr Pene. Whilst recognising that there is a degree of uncertainty associated with such modelling, it enables the reported degree of effect to be correlated with odour concentration predictions for the current discharge. Inputs for the updated odour modelling were agreed between the air quality experts, Mr Pene, Ms Ryan, Mr Van Kekem and Mr Backshall. The modelling results provided by Mr Pene with the applicant's reply included consideration of the curtilage of dwellings, the upper floor of the McDonald dwelling (62 Airport Drive) and updated land use categories with tighter resolution to better account for the shelter belts around the site. We accept the evidence that, given the mitigation measures proposed, and other factors, the modelling results are likely to overestimate day to day effects.

132. The updated modelling of the existing discharge predicts odour concentrations of 6.9 OU/m^3 (1 hour average, 99.5th percentile) at the McDonald dwelling and 7 OU/m^3 (1 hour average, 99.5th percentile) the dwelling at 69 Airport Drive (not a submitter). These predictions exceed the relevant odour modelling guideline for rural areas of 5 OU/m^3 (1 hour average, 99.5th percentile). The experts noted that this guideline should not be viewed strictly as a pass/fail limit. Nevertheless, the modelling results support the view that the existing discharge is likely to have caused odour nuisance effects at some nearby dwellings.

133. The modelling assessed chronic effects from shed ventilation but does not take into account the effect of shed clean outs. The evidence from submitters and Mr Van Kekem is that these clean out events can cause acute (higher strength, relatively short duration) odour events, additive to the chronic odour effects from shed ventilation that have been modelled. Mr Whiting noted that efforts are now being taken to remove litter from the sheds when wind is not blowing towards residents, however this will not always be possible in practice.

134. We conclude that the existing discharge is likely to have caused adverse odour effects at neighbouring properties, particularly at the McDonald property at 62 Airport Drive. The office and house are in close proximity to the discharges and are downwind for a significant proportion of time. The tall boundary shelter belts contribute to poor odour dispersion conditions (low wind speeds) and may in windier conditions result in downdrafts on the lee side of the belt. We conclude that the frequency and duration of such odours is likely on occasions to have resulted in offensive or objectionable odour at this property, however we cannot be certain that this was the case.

135. The complaints record and also the odour diary information provided by the submitters indicates an increase in the frequency of recorded odour events since approximately August 2021. We conclude that this information does not reflect an increase in odour effects relative to previous years, but rather reflects more intensive recording and reporting of odour in recent months prior to the hearing and probably reflects an increased level of sensitivity amongst neighbours.

136. In summary, we are unable to conclude with certainty that the existing operation has given rise to offensive or objectionable odour. We accept that it is probable that this has occurred (at least at the McDonalds' property) but we have insufficient evidence of the frequency and duration of such events to draw any firm conclusions.

137. We conclude, based on the dispersion modelling odour diaries and submitter evidence, that the existing operation is likely to have resulted in some chronic and acute odour effects and reduction of amenity values for nearby residents, particularly the McDonalds. However, such effects need to be seen within the context of the permitted baseline, the existing consent and the fact that this is currently a rural environment.

G. THE PROPOSED OPERATION AND DISCHARGES

138. The form of the existing and proposed operation of the farm is described in the officer's report and the evidence of Mr Whiting. The key elements are as follows:

- The birds are currently housed full time in 4 sheds.
- The farm runs a total of 5 to 7 cycles a year.
- All sheds are run on the same cycle
- Once the free range operation commences the adult birds (typically 21 days plus) will be free to range outside during the day when weather conditions are suitable.
- The birds are mature and ready for harvesting after 42 days.
- The female birds are captured first and then the male birds a day or so later (shed doors are open during the capture operations).
- The litter is then cleaned out of the sheds by contractors over the course of a few days.
- There is some flexibility around when this occurs.
- The litter is loaded by the contractor (Osflo) via front end loader on to a truck and removed for application to land elsewhere. This cleanout operation has the potential to cause odours beyond the property, since the litter is no longer contained in the sheds.
- This discharge potential is reduced to a limited degree by the use of misters over the doorways as the litter is scraped out and loaded. The evidence is that the primary benefit of the misters will be to reduce dust emissions during clean out of the sheds.
- In the future, clean out will so far as possible be timed to coincide with favourable wind conditions. For example, clean out in westerly winds avoids odour dispersal towards sensitive receptors in close proximity to the farm.
- The highest level of odour and ammonia within the sheds is during the second half of the birds' life as bird mass increases, which in turn leads to increased temperatures and humidity along with increasing volumes of excreta in the litter. Mr Whiting stated that the odour emission rate from ventilation peaks at approximately days 28 to 35 of each cycle.

- The sheds are currently kept at negative pressure with horizontal side wall fans. This form of discharge results in relatively poor odour dispersal and is a factor contributing to odour impacts at the adjacent McDonald property at 62 Airport Drive.
- The proposal is to decommission all side vent fans and replace them with ceiling mounted fans discharging via 7m high stacks fitted with misters. This change is predicted to improve odour dispersal and reduce particulate matter emissions.
- The sheds will in the near future all be operated at balanced pressure rather than negative pressure.
- Poultry farm odour has potential to cause odour nuisance at neighbouring properties, particularly at nearby sensitive receptors such as dwellings. This is reflected by the buffer distances specified in Appendix V of the RAQP.
- Ammonia is one component of the discharge which at higher levels can cause offensive or objectionable odour. Other odorous compounds are also emitted and collectively contribute to odour associated with the discharge.
- Ammonia and humidity levels in the sheds are monitored and regulated to maintain bird health and safe working conditions inside the sheds. The applicant is increasing the level of monitoring and management of these parameters. Current best practice measures are proposed to minimise moisture accumulation in the litter which is correlated with odour emissions from poultry farms.
- Although we heard from one submitter (Glenis McDonald) of health effects which she attributed to the discharge, we did not hear any expert evidence suggesting that adverse health effects were typically associated with poultry farm discharges. Concentrations of ammonia and other gaseous contaminants are predicted to be well below guidelines for protection against health effects.
- The discharge from shed ventilation and clean out includes particulate matter (PM), a portion of which will be PM_{10} (inhalable particles less than 10 microns in diameter). PM discharges from the existing side wall vents have occurred in close proximity to the McDonald property.
- The evidence is that the change to a balanced ventilation system with discharge via roof vents and misters will substantially reduce PM emissions from the sheds.

139. The primary source of odour from the poultry farm is ventilation of the sheds. The evidence is that the odour emission rate is highest during the latter stages of the growing cycle. Odour continues to be emitted once the birds have been removed and the remaining litter (containing excrement) remains within the ventilated sheds. Depending on logistics and weather conditions, several days may be required before litter can be removed from empty sheds.

140. Odour is also discharged during removal of spent litter from the sheds following each rearing cycle. We heard that shed cleanout occurs on 5 to 7 occasions per year. The evidence is that odour from litter removal can be more intense than typical odour from shed ventilation.

141. Odour effects are commonly described as “acute” or “chronic”. The Good Practice Guide for Assessing and Managing Odour[3] states that, depending on the different combination of FIDOL factors, offensive and objectionable effects can be caused by:

- high-intensity and/or highly unpleasant odours occurring infrequently or for short periods (a few minutes to an hour) (acute), and/or
- low-intensity and/or moderately unpleasant odours occurring frequently or continuously over a long period (chronic).

142. Ms Ryan described chronic effects orally as *"recognised adverse effects where there are low levels of odour over a period of time"*. The evidence is that the primary adverse effect associated with the poultry farm is caused by chronic odour exposure from ventilation of the sheds. However, we accept that the shed litter cleanouts can give rise to more intense and unpleasant odour on occasion, causing potentially acute effects. Such acute effects are not assessed by dispersion modelling and are controlled by adjusting the timing of cleanouts in relation to weather conditions, to limit exposure to the odour at sensitive receptors.

143. Dust emissions from poultry farms are typically regarded as minor in the context of odour emissions that are the focus of assessments. However, in this case we accept the evidence of Mr Van Kekem that discharge of dust via the side wall vents in close proximity to the McDonald property boundary had potential to cause adverse effects that warrant consideration. Due to the proposed changes to the ventilation system, any dust emissions will now be discharged via the 7 m high roof vents fitted with misting sprays. The closest roof vent to the McDonald property is proposed to be 100 m from the dwelling. We accept the evidence that these changes are likely to result in reduced particulate matter emissions from shed ventilation.

H. LIKELY EFFECTS FROM THE PROPOSED OPERATION

Dispersion modelling of the discharge from shed ventilation

144. The updated odour modelling provided by Mr Pene indicates a substantial reduction in predicted odour concentrations at nearby dwellings as compared to the current situation. This reduction is a function of mitigation measures proposed by the applicant and in particular the reduction in stocking density and the change from sidewall ventilation to 7 m high roof vents. Odour concentrations are predicted to reduce from 6.9 to 3.3 OU/m^3 (1 hour average, 99.5th percentile) at the McDonald dwelling and 7.0 to 4.1 OU/m^3 (1 hour average, 99.5th percentile) at the 69 Airport Drive dwelling. All predicted concentrations at dwellings are within the 5 OU/m^3 (1 hour average, 99.5th percentile) guideline applicable to rural areas.

145. There is a degree of uncertainty associated with such model predictions. However, we accept the evidence of Mr Pene, that the results are expected to be generally conservative, given the degree of mitigation proposed. That was not disputed by the other air quality experts.

[3] Ministry for the Environment. 2016. *Good Practice Guide for Assessing and Managing Odour.* Wellington: Ministry for the Environment.

146. The modelling results for the proposed discharge support the conclusion that chronic odour effects are likely to be generally acceptable (albeit perhaps still annoying on occasion to some residents) for the period of time while the surrounding area remains predominantly rural in nature.

147. However, as shown in Annexure 5, the predictions for several dwellings (including the McDonalds, G Elliot and 6 non-submitter dwellings) are greater than or equal to the guideline of 2 OU/m^3 (1 hour average, 99.5th percentile) typically applied to residential or urban receiving environments. That is generally consistent with buffer distance guidance for poultry farms. We also note that the modelling does not include the effect of shed cleanouts. We conclude that once residential development occurs within Area Q 3E and urban development occurs in Area R, the discharge has the potential to cause unacceptable adverse odour effects.

148. The updated odour modelling also included predictions for a permitted baseline scenario. For the reasons already discussed, we have decided not to take the permitted baseline into account for the period beyond 1 June 2026. We also note that the permitted scenario is predicted to cause odour concentrations that are less than predicted for the proposal, but which exceed the 2 OU/m^3 (1 hour average, 99.5th percentile) guideline for residential/urban areas at the nearest dwellings.

Dust Effects

149. Ventilation of the sheds and cleanouts result in particulate matter discharges, particularly when the litter is maintained in dry condition to minimise odour emissions. Photographic evidence provided by Mr Van Kekem indicated that discharge from sidewall vents is likely to have resulted in dispersion of dust towards the McDonald's property. We are mindful of Ms McDonald's concerns regarding health effects potentially associated with the discharge.

150. We accept the expert evidence that discharge via the 7 m roof vents fitted with misting sprays is expected to substantially reduce dust emissions from ventilation of the sheds. Given the close proximity of neighbouring dwellings, we determine that misting sprays on the roof vent discharges should be required by condition. In response to our questioning, the applicant has now proposed a condition requiring instrumental particulate matter monitoring to be undertaken in the event of a validated dust complaint associated with emissions from the site. We consider such a condition to be appropriate, subject to modifications to improve certainty.

151. Taking into account the mitigation proposed and the expert evidence, we conclude that the discharge of dust and PM_{10} from the site is unlikely to cause adverse effects that are more than minor.

Odour from Shed Cleanout Operations

152. The cleanout of spent litter from the sheds at the end of each 42 day rearing cycle causes odour that can be more intense than experienced from shed ventilation discharges. That is particularly so if light winds are blowing from the farm towards dwellings in close proximity. The cleanout operations we observed during our site visit discharged noticeable odour, but we considered that the intensity of odour we experienced on that occasion was not high.

153. The sheds are cleaned out sequentially. The doors at the end of each shed are opened and a loader moves the contaminated litter out on to the concrete pad in front of the shed and loads it into a dump truck for removal. The operation takes up to half a day for each of the 4 sheds and accordingly, depending on weather conditions will usually take 2 but on occasions 3 days to complete all of the sheds.

154. The frequency of cleanout operations is limited to 5-7 occasions per year, at the end of each growing cycle. By our calculation this is around 20 to 28 half days per year, taking place on between 10 to 20 days per year.

155. The applicant proposes to include limitations on the timing of the cleanout in the AQMP to avoid winds blowing towards sensitive receptors. Cleanout during westerly winds is able to avoid odour nuisance effects because there are currently no dwellings (or sensitive businesses) for a significant distance downwind of the farm. The additional analysis of airport meteorological data undertaken by Mr Pene, submitted with the reply, shows that the cleanout operation could usually be undertaken when wind would not carry odour towards sensitive receptors, given flexibility for cleanout to occur any time within a 7-day period. (Installation of an on-site meteorological station is proposed and will assist in monitoring local weather conditions.)

156. We accept the evidence that the mitigation proposed is consistent with good practice to minimise the effects of odour and dust from shed cleanouts. We also note that several visits from TRC officers during cleanouts did not conclude that this discharge was causing objectionable or offensive effects. So long as the surrounding environment remains rural in character, we conclude that the effects of emissions from shed cleanouts can be managed so that they are acceptable. The Applicant has proposed conditions which provide adequate assurance in this regard. We acknowledge that the McDonald's may still notice some chronic odour effects, however we do not expect those to result in offensive or objectionable odour.

157. We conclude however, that once area R is zoned active urban, and area Q3E becomes residential, odour (including from shed clean out operations) has the potential to cause a detraction from residential amenity values and may result in a nuisance to adjoining businesses. Whether or not these potential effects are acceptable, would be best assessed in the light of the monitoring history between now and the time those zonings become active. That assessment could then take place in the light of settled plan provisions.

I. RELEVANT PLAN PROVISIONS

158. Relevant policies from the RAQP include the following:

Policy 1.2: Odour

Ensure that, (to the fullest extent practicable), any discharges to air of odorous contaminants do not cause odours that are offensive or objectionable.

Policy 2.3: Management areas

Air quality management in Taranaki will be carried out in a way that recognises that some areas of the region have within them, uses or values that are more sensitive to the discharge of contaminants to air than other areas. In particular, recognition will be given to any adverse effects from the discharge of contaminants to air on:

a. people and property in urban areas, residences and places of public assembly and on the safe and efficient operation of roads, airports and other infrastructure;

Policy 2.7: Best practicable option

The Taranaki Regional Council may, where appropriate, require the adoption of the best practicable option to prevent or minimise adverse effects on the environment from the discharge of contaminants to air. When considering what is the 'best practicable option', the Taranaki Regional Council will give consideration to the following factors in addition to those contained in the definition in the Act, of best practicable option:

a. the implementation of Policies 1.1, 1.2 and 1.3, when having regard to the nature of the discharge;

b. any sensitive receiving environments as described in Policy 2.3;

c. the capital, operating and maintenance costs of relative technical options, the effectiveness and reliability of each option in reducing the discharge, and the relative benefits to the receiving environment offered by each option;

d. the weighing of costs in proportion to any benefits to the receiving environment to be gained by adopting the method or methods; and

e. maintaining and enhancing existing air quality in the neighbourhood as far as practicable

Policy 7.2: Actual or potential effects that require particular consideration

In considering the effects of any discharge of contaminants to air from aquaculture or intensive farming processes, particular regard will be had to the following effects:

a) any actual or potential effects on amenity values, including any effects of odour or particulate matter arising from the discharge, and any nuisance effects;

Policy 7.3: Assessment of effects

In considering the effects of any discharge of contaminants to air from aquaculture or intensive farming processes, matters that will be taken into account include:

a) the nature, volume, composition and concentration of the contaminant and the frequency, rate, location and manner of the discharge;

b) the design, construction and operation of industrial and trade processes or facilities and their capacity for avoiding, remedying or mitigating adverse environmental effects;

c) surrounding environmental conditions that may affect the frequency, duration, intensity and degree of environmental effects including topography, wind speed and direction, and other climatic or weather conditions; and

d) the best practicable option to prevent or minimise any adverse effects on the environment in accordance with Policy 2.7.

159. We consider that the grant of consent is consistent with these policies. We note that policy 2.3 (a) requires a focus on urban areas and policy 2.7 includes a focus on sensitive receiving environments which will include dwellings and future residential areas.

160. We note the emphasis on the best practicable option, and have concluded that a BPO condition is appropriate.

161. We refer to the 300m guideline within Appendix V of the RAQP recommended as a buffer distance between an intensive poultry farm containing between 60,000 and 79,999 birds and the nearest offsite dwellinghouse, and are of the view that this is particularly relevant. That guideline is not a standard and the RAQP explicitly states that a lesser separation does not preclude the grant of consent. Nevertheless, the guideline illustrates the need for additional caution when renewing this consent.

Relevant provisions from the operative NPDC

DEV1-P4

Avoid activities that are inconsistent with the Bell Block Area Q Structure Plan and/or activities that will:

constrain, limit or compromise the development and use of the Development Area for the planned urban growth purposes;

result in adverse effects on the character and amenity of Development Area, which cannot be appropriately avoided, remedied or mitigated;

result in reverse sensitivity effects and/or conflict with permitted activities in the underlying zone;

provide insufficient infrastructure to service the activity's needs and/or infrastructure that is inconsistent with the Bell Block Area Q Structure Plan and/or constrain, limit or compromise the efficient provision of infrastructure to service future urban growth needs.

162. The current provisions for area R are not particularly relevant since they are in the process of change via the Proposed District Plan process. Those provisions will however need to be compatible with the policy above or its equivalent in the Proposed Plan.

J. THE APPLICANT'S REASONS FOR ITS PROPOSAL

163. We are obliged by section 105 to consider this matter. However, we do not find it to be of any relevance here. The Applicant has made and continues to make considerable investment in the operation. It is unsurprising that it has decided to make an application to continue that operation.

K. POSSIBLE ALTERNATIVE METHODS OF DISCHARGE.

164. We are also required to consider this matter. The Applicant has adopted alternative means of discharging via the roof vents and we consider that this and associated measures will provide significant mitigation of the potential adverse effects of day to day operations. The Applicant has also proposed mitigation measures to further address the potential for objectionable odour from the shed clean out operations.

L. PROPOSED CONDITIONS, MITIGATION AND MONITORING

165. The evidence is that the changes proposed, many of which have already been implemented, are consistent with best practice for modern chicken farms. In particular, we note the following key mitigation measures:

a) Discharge via 7m high roof vents to optimise odour dispersion;

b) Reducing the shed stocking density to 15 birds/m^2, representing a 36% reduction from the currently authorised capacity;

c) The new balanced heating and ventilation system to reduce humidity in the sheds;

d) Misting units to reduce dust emissions;

e) Monitoring internal shed climatic conditions;

f) Maintaining grass cover in the free ranging areas.

166. We find that these mitigation measures will limit discharges from the chicken farm and consider that they are consistent with the best practicable option. However, given the close proximity of neighbouring dwellings, we conclude that such measures will not be able to prevent some level of odour being experienced at neighbouring properties at times. We expect that any such odour will not be offensive or objectionable beyond the boundary of the site and accordingly will be within the permitted baseline for the current rural environment.

167. The good practice mitigation measures proposed by the applicant are included in the conditions of consent now proposed. Those conditions have taken into account input from experts for the submitters and also the officers. We consider that the proposed conditions offered by the applicant in reply are appropriate, subject to the following amendments:

- Adopting a variation to the most recent condition offered by the applicant concerning consent duration, as we have discussed;
- Condition 4 requires the Applicant to adopt the Best Practicable Option to address adverse odour effects. We have specifically provided that this is not limited to ensuring compliance with Condition 13.

- An implementation date is not specified for the measures detailed in Condition 7 because it is expected that these measures will have been implemented by the time this decision is issued;
- We have amended the Neighbourhood Liaison Group Condition 11 to include a purpose and require 6-monthly meetings until the end of 2024 and annual meetings thereafter. The invitation to attend liaison group meetings is to be extended to all neighbours with a dwelling within 400 m of the site;
- The odour scout monitoring required by Condition 15 is now required to occur over two rearing cycles during the 2022-2023 summer, to confirm the applicant's assessment of odour effects and to indicate whether additional measures may be required in accordance with Condition 4 and Condition 13. (We did not consider it appropriate for this monitoring to depend solely upon consent compliance.)
- We have made it clear that the odour scout monitoring is not directed solely at compliance with Condition 13. We have provided that further odour scout monitoring may be required at a later date if deemed appropriate and requested by TRC;
- Condition 16 will require that the results of an odour scouting programme required by Condition 15 be accompanied by analysis by an independent and suitably qualified air quality expert;
- Condition 18 is amended to provide that, if additional mitigation measures are required as a result of odour scout monitoring, a further odour scout monitoring programme must be implemented (without needing a decision by TRC);
- Reference to the complaints record in proposed Condition 18(a) has been removed because complaints or the absence thereof are not a reliable and objective indication of the degree of odour effect;
- Condition 19 has been amended to specifically require instrumental PM_{10} monitoring in relation to a threshold value, because this monitoring most closely relates to potential health effects and also adequately addresses dust nuisance effects;
- Condition 22 has been amended to provide a wider objective for the AQMP which is linked to Condition 4 as well as 13.
- Requiring certification by Council of the AQMP that it meets the stated objective and includes the specified details;
- Requiring review and recertification of the AQMP every two years.

(**Annexure 7** generally shows the location of amendments we have made to the conditions as proposed by the Applicant)

168. We note that some of the amendments which we have included were not discussed at the hearing or subsequently. We are satisfied that the amendments we have made are appropriate and do not require input from the Applicant or other parties.

M. DURATION OF CONSENT AND VOLUNTEERED EARLY EXPIRY CONDITION

169. This has been the most challenging aspect of our decision. We have carefully considered the submissions on behalf of the Applicant, which assert (based on the Court of Appeal decision in *Hawthorne*) that the deferred residential zoning of area Q3E and the deferred urban zoning of area R do not form part of the reasonably foreseeable future environment because that requires speculation. We acknowledge that if Ms Booker is correct, then there would be no basis for an earlier expiry of the consent than that proposed by the Applicant (1 June 2038).

170. We have adopted what we consider a more realistic approach, which focusses on the likely timing of the live Residential zoning of area Q3E. We have concluded that *Hawthorne* can be distinguished in a situation where there is deferred residential zoning applying to the receiving environment. In this situation no speculation is required as to the nature of that zoning or its inevitability.

171. We have considered the matters which are relevant to the duration of consent, in particular:

- the nature of the discharge,
- the proposed changes to the operation and the mitigation measures proposed
- the predicted extent and intensity of the odour dispersion plume,
- the potential effects of odours from the shed clean out operation
- the sensitivity of the future receiving environment
- the likely effectiveness of mitigation measures and conditions
- the likely timing of urban zoning in area R and active Residential zoning in area Q3E
- the "Augier" condition offered by the Applicant.

172. Prior to the offer of the so called "Augier" condition, we had concluded that the consent should have an expiry date of 1 June 2030. Our reasons for this interim conclusion were as follows:

a) We have concluded that the continuation of the operation within the context of the current rural zoning of area R and the deferred residential zoning of area Q3E, is acceptable for the reasons set out earlier.

b) We have concluded that by 1 June 2030, it is highly likely that the roading upgrade will be complete and that area R (including the AFL site) will be zoned for some form of urban development, with the result that the residential A zoning of area Q 3E will be active.

c) In our view, the ongoing continuation of the discharge beyond that date may be inconsistent with the Q3E residential zoning and possibly the rezoning of area R.

d) In particular, we have concluded that it is possible that odours from the farm will on occasions detract from residential amenity values once properties within area Q3E and within 300 m of the site are developed for residential purposes in accordance with Residential A zoning.

e) The dispersion modelling indicates that normal operational odours from ventilation of the sheds are likely to result in odour concentrations in some parts of an adjoining residential zoned area (Q3E) that exceed recommended guidelines. That prediction is consistent with buffer distance guidance for poultry farms.

f) In addition, there is a risk of occasional acute odour issues from the clean out operation affecting area Q3E.

g) In our view, those odours are acceptable within the current rurally zoned environment but may not be acceptable once area Q 3E is developed. They will also become more difficult to manage once Area R becomes developed and more sensitive receptors become established around the farm. (For example, that will limit the ability to adopt favourable wind conditions for clean out operations.)

h) We do not consider it appropriate to apply the permitted baseline beyond mid 2030 for the reasons we have discussed.

i) In our view the use of a review condition will not address the potential effects on the future environment which we have outlined.

j) We have concluded, that if the consent holder wishes to continue the operation within that more sensitive environment, that such a proposal should be considered within the context of an application in the light of whatever plan provisions are applicable by that date. The performance of the farm between now and 2030 and its ongoing appropriateness would also be best assessed in 2030.

k) We note that we do not place any reliance on TRC's informal policy for common catchment renewal dates. The "policy" is not a policy in the RAQP and does not appear to be relevant to discharge to air consents.

l) Finally we note a recent High Court decision in *Clutha DC v Otago RC* where the Court observed as follows:

> [101] As the Regional Council referred to in their submissions and as the Environment Court noted in *Curador Trust v Northland Regional Council*, s 123(d) of the RMA provides that a water permit can have a term up to 35 years if specified in the consent but will be for just five years if no term is specified in the consent.52 The presumptive period in the RMA is five years and the maximum period for which consent can be granted is 35 years. Accordingly, with reference to the legislation, there is no basis to suggest the presumption should be that a take consent will be granted for 35 years unless there is good reason to depart from that.[4]

[4] CIV-2020-412-000113 [2021] NZHC 510

Logically, the latter proposition must also apply to the duration of a discharge permit.

The early expiry condition proposed by the Applicant

173. Following the hearing (and after discussions with NPDC and TRC) the Applicant volunteered a condition as follows:

> *"The Applicant proposes the following revised Augier condition on term of consent:*
>
> > **This resource consent expires on the earlier of the following dates:**
> >
> > **a) 1 June 2038; or**
> > **b) on or after [1 June 2032] when:**
> >
> > **(i) Airport Drive has been realigned and is operational; and**
> > **(ii) the property has an operative urban zoning under the New Plymouth District Plan.**
>
> *The Applicant also acknowledges paragraph 4 of the Commissioners' Minute that the term of consent will likely be granted for 8-10 years. The Applicant's preference remains for the Augier condition to apply after a 10 year consent term, for the reasons set out in the Applicant's reply at paragraph 73. However, it is accepted that the Augier condition would apply after the term of consent decided by the Commissioners in their Decision of between 8-10 years (i.e. the date of 1 June 2032 in the offered condition in 3(b) above would be replaced by a date between 1 June 2030 and 1 June 2032 depending on the Commissioners' decision).*[5]*"*

174. We have decided that subject to a condition of this type, the final consent duration can be extended to the date requested by the Applicant. That approach meets our concerns regarding the future environment. In relation to Ms Booker's last point, we confirm that our decision is that the date in clause (b) should be amended to 1 June 2030.

175. Following the Applicant's Memorandum, Mr Grieve filed a memorandum on behalf of the submitters in relation to this condition. He submitted that we have the power to impose such a condition irrespective of the Applicant's agreement to the condition. Within that context, he proposed a condition which would have the consent expire on the earlier of 1 June 2030 or the when the property has an operative urban zoning. The Applicant did not respond to this suggestion.

176. We can see the logic in Mr Grieve's suggestion, since it is *possible* that the contingency may arise prior to 1 June 2030. We also agree that such an approach would better address the concern we have summarised above.

[5] Memorandum from the Applicant dated 27 March 2022.

177. From an effects based perspective, the approach proposed by Mr Grieve, would be directed at the period between when area Q3E becomes zoned as live residential and 1 June 2030. In our view, that period is unlikely to be for more than 2 years and could well be less. Furthermore, there may be a considerable delay between active zoning and residential dwellings being occupied.

178. Within this context, we have concluded that the "*earlier of*" approach proposed by Mr Grieve is unnecessary.

179. We do however have an issue with the Applicant's proposed use of the words *"the property has an operative urban zoning"*. That is because our concern is primarily with the live Residential zoning of area Q3E. It is possible that the property might be excluded from the urban zoning of area R. Within that context, we have concluded that the following should be added after paragraph (ii):

> *and/or*
>
> *(iii) any part of area Q3E as shown in the Operative New Plymouth District Plan, has an operative and active (live) residential zoning.*

180. Prior to issuing our decision, we requested confirmation of whether the Applicant agreed to this addition (in slightly different form). Ms Booker responded as follows:

> *With respect, the Applicant does not agree to the additional words sought to be added by the Commissioners.*
>
> *The wording volunteered by the Applicant includes the wording proposed by New Plymouth District Council (NPDC) and is consistent with the wording in the operative New Plymouth District Plan (District Plan) and the notified version of the proposed District Plan. Stage 3E urban residential type subdivision and development is prohibited until Area R is rezoned through a statutory plan process and released upon completion of realignment of Airport Drive (OL60D). This wording in the Operative Plan is a result of Plan Change 20 (which rezoned Area Q from Rural Environment Area to Residential A Environment Area and applied the Future Urban Development Overlay to Area R) which recently went through an extensive plan change process (adopted 17 August 2015). I'm advised by my client that Rule OL60D was a direct result of TRC, Tegel and the Applicant's involvement in that process and was driven by concerns for reverse sensitivity and the poultry farm becoming a stranded asset.*
>
> *The properties fronting the western side of Airport Drive in Q3E already have an operative residential zoning. Further, even if these properties are released to be developed in the future at some unknown time, resource consent is required for any future subdivision and development is dependent on a willing 3rd party landowner.*

181. We do not fully understand the rationale for the Applicant's resistance to the amendment we have proposed. We have concluded that the additional wording we have decided upon is appropriate for the following reasons:

- Our concern is with the effects of the discharge on the receiving environment.
- The properties fronting the Western side of Airport Drive are zoned as residential but that zoning is not yet active.
- Under the operative plan the zoning will become active once area R is zoned as active. The subject property is part of area R, but the zoning of the property is not the trigger for area Q3E becoming live residential.

182. We have concluded that the Applicant's agreement to this amendment is unnecessary for the following reasons:

- The addition achieves the same objective as what the Applicant had proposed.
- We have included the additional clause to better reflect our conclusions regarding the effects of the proposal on the likely future environment.
- The condition has been imposed for a resource management reason.
- It is certain and enforceable
- It specifies the duration of consent as required by section 123 (e).

183. In case our decision is challenged on this point, we note that in the absence of the condition as we have included, we would have provided that the consent expire on 1 June 2030. The reasons for that are set out earlier.

N. OVERALL CONCLUSIONS AND DECISION

184. We conclude that the proposed operation, in conjunction with the conditions which we have included, will have significantly less adverse effects on the existing environment as compared to the operation prior to the 2021/2022 upgrades.

185. We conclude that those effects will be sustainable and in accordance with relevant objectives and policies at least until areas Q3E has live residential zoning.

186. We have some reservations as to whether the discharges will continue to be acceptable within the context of the reasonably foreseeable future environment after that Q3E is rezoned. We have decided that if the consent holder wishes to continue its operation within that more sensitive environment, that such a proposal should be considered in the context of a further application within the context of the final plan provisions.

187. We are concerned with the potential for the discharge (particularly from the clean out operations) to result in acute adverse effects at the McDonald's property. We consider that the conditions will adequately address that risk and allow for adaptive management if there are ongoing more than minor effects.

188. Accordingly, (and for the reasons discussed earlier) we have decided that the consent should be granted for a term expiring on:

the earlier of the following dates:

a) 1 June 2038; or

b) on or after 1 June 2030 when:

(i) Airport Drive has been realigned and is

operational; and

(ii) Any part of area R (as shown in the current operative plan) has an operative urban zoning under the New Plymouth District Plan; and/or

(iii) any part of area Q3E in the Operative New Plymouth District Plan, has an operative and active (live) residential zoning.

189. The consent is granted on the conditions set out in **Annexure 1**.

Philip Milne (chair)

John Iseli

Independent Commissioners on behalf of Taranaki Regional Council.

11 May 2022

Annexure 1: Consent and conditions

Consent 5262-3.0

Discharge Permit

Pursuant to the Resource Management Act 1991 a resource consent is hereby granted by the Taranaki Regional Council

Name of Consent Holder:	Airport Farm Trustee Ltd
Decision Date:	11 May 2022
Commencement Date:	01 June 2022

Conditions of Consent

Consent Granted:	To discharge emissions into the air from a free range poultry farming operation
Expiry Date:	As per General Condition ‘a’
Site Location:	58 Airport Drive, Bell Block, New Plymouth
Grid Reference (NZTM)	1701563E-5679966N

For General, Standard and Special conditions pertaining to this consent please see reverse side of this document

47 Cloten Road · Private Bag 713 · Stratford 4352 · New Zealand
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www.facebook.com/TaranakiRegionalCouncil twitter.com/TaranakiRC

Please quote our document number in your reply

Working with people | caring for Taranaki

Doc# 30562803-v1

Consent 5262-3.0

General conditions

a. This consent expires on the earlier of the following dates:

   a) 1 June 2038; or

   b) on or after 1 June 2030 when:

      (i) Airport Drive has been realigned and is operational; and

      (ii) any part of area R (as shown in the current operative plan) has an operative or proposed urban zoning under the New Plymouth District Plan; and/or

      (iii) any part of area Q3E in the Operative New Plymouth District Plan, has an operative and active (live) residential zoning.

b. Except where varied by the conditions of this consent, or where required to implement amendments to the Odour Management Plan, the operation of the poultry farm and associated discharges shall be in accordance with the information submitted with the application and the further information and evidence provided as part of the hearing. (In the event of any conflict, the most recent information shall apply.)

c. 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, 1991.

d. Upon commencement of this resource consent pursuant to section 116 Resource Management Act 1991, the consent holder will surrender its existing air discharge permit (RC 5262-2.1).

Special conditions

1. This consent authorises emissions to air from up to four poultry sheds and associated free-range areas located and configured generally as shown in the application for this consent.

2. The total area of the four sheds used for intensively housing poultry shall not exceed 4,068 square metres, and each shed shall have an associated free-range area that is no less than the shed area.

3. The stocking intensity of poultry in any shed shall not exceed 15 birds per square metre at any time.

4. The consent holder shall, throughout the term of the consent, 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 into the air from the site, in particular, to address any acute or chronic odour effects at nearby dwellings and/or their curtilages. (This requirement applies irrespective of whether such effects are in breach of condition 13.)

Consent 5262-3.0

5. Prior to undertaking any alterations to the poultry unit's processes, operations, equipment or layout, 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.

6. The consent holder shall minimise the emissions and impacts of contaminants discharged into air from the site by installation and implementation of:

   i) process equipment;

   ii) process control equipment and emission control equipment;

   iii) supervision and operation management;

   iv) management of the timing of litter removal to, so far as is practicable, avoid meteorological conditions most likely to cause odour effects at nearby dwellings (including their curtilages);

   v) the proper and effective operation, supervision, calibration, maintenance and control of all equipment and processes; and

   vi) the proper care of all poultry on the site in terms of litter management, bird care, and diet;

   as described in the application, or by subsequent improvement to those processes.

7. In particular, the consent holder shall install and operate –

   i) 3 roof ridgeline exhaust fans on each shed;

   ii) misting devices at the outlet of each of the ridgeline roof vents on each shed;

   iii) hot water indirect shed heaters in each shed;

   iv) devices to monitor the atmospheric conditions inside each shed, including but not limited to carbon dioxide, temperature, humidity and ammonia concentrations, and shall retain monitoring records for a period of three months beyond the end of each broiler rearing cycle.

8. The exit ports for the roof ridgeline fans shall be located at a minimum height of 7.0 metres above ground level, and the roofline fans on shed 3 shall be located at a minimum distance of 100 metres from the dwelling house at 62 Airport Drive.

9. The consent holder shall maintain a shelterbelt on or alongside the property's boundaries. The shelterbelt shall be in the form of a dense row of trees, which reach a height of at least 4.0 metres; or a windbreak to a height of 3.0 metres on the northern and southern boundaries in the absence of trees.

10. Within six months following the initial exercise of this consent and thereafter, natural ground cover shall be maintained over at least 70% of the range area of each shed.

11. The consent holder shall attend a Neighbourhood Liaison Group (NLG), to be convened and chaired by the Taranaki Regional Council, with meetings to be scheduled at least every six months until 1 December 2024 and thereafter at least every 12 months. The purpose of the NLG is to address any community concerns about the effects of operation of the farm, and to work with neighbours to try to develop acceptable means of addressing and managing any adverse effects and to review the implementation and effectiveness of these measures.

    All neighbours occupying a dwelling within a 400 m radius of the site shall be invited to attend.

12. (a) The consent holder shall provide to the Taranaki Regional Council notification of a provisional schedule of bird capture and litter removal, at least 24 hours prior to the first bird capture at the end of each rearing cycle. Notification shall include the consent number, a brief description of the work, the intended commencement date and the likely date of clean out operations. Unless the Chief Executive advises that an alternative method is required this notice shall be served by completing and submitting the 'Notification of work' form on the Council's website (http://bit.ly/TRCWorkNotificationForm).

    (b) If requested by a TRC compliance officer, the consent holder shall inform the officer at least one hour prior to the commencement of any clean out operation at any of the sheds.

    (c) The consent holder shall keep a record of the timing of all shed clean out operations and the meteorological conditions occurring during those times. Such records shall be provided to the TRC on request.

Odour & Dust Conditions

13. The discharge authorised by this consent shall not give rise to any odour or dust discharge that is noxious, dangerous, offensive or objectionable at any location beyond the boundary of the property. (The boundaries of the property are as shown in the application report 'Airport Drive Free Range Poultry Farm Odour Assessment, June 2021', Tonkin and Taylor.)

14. The consent holder shall document any complaints of offensive odour or dust notified to it at any time after the issue of this consent and shall provide details of each complaint to Taranaki Regional Council as soon as possible and in all cases within 24 hours of the receipt of the complaint. It shall retain the documentation for the duration of the consent, and shall make the record available upon request to (i) the complainant, and (ii) the Taranaki Regional Council. In order to be documented, any complaint made must provide the name of the complainant (if provided) together with the date and the location, at which the alleged event occurred. Unless the Chief Executive advises that an alternative method is required this notice shall be served on the Regional Council by completing and submitting the 'Notification of work' form on the Council's website (http://bit.ly/TRCWorkNotificationForm).

    Advice Note: It is expected that the Taranaki Regional Council will be the initial contact point (0800 736 222) for any complaints/allegations regarding the operation of the site. The consent holder could be notified within the same complaint/allegation.

Consent 5262-3.0

15. The consent holder shall prepare and implement an independent odour scouting programme with the objective of determining whether it is likely or not that chronic or acute odour effects are occurring beyond the boundary. The odour scouting programme shall run between 1 November 2022 to 31 March 2023 such that it includes monitoring during at least two full bird rearing cycles. One or more further odour scouting programs may be required by the Taranaki Regional Council if it deems that to be appropriate.

    The purpose of the programme is to confirm compliance or otherwise with Condition 13 and to identify any chronic or acute odour effects at any nearby off-site dwellings and their curtilages

    The programme shall meet the following criteria:

    a) The odour scouting programme shall be developed by an independent and suitably qualified air quality expert and certified as suitable to meet its purpose by the Taranaki Regional Council and shall be provided to the NLG for its information;

    b) The independent air quality expert shall provide the necessary training to independent people who have been selected to undertake observations;

    c) Odour scouting shall take place over a minimum of two bird rearing cycles;

    d) Odour scouting must be undertaken at a frequency that is representative of the entire cycle including specific events during the cycle such as bird catching and shed clean out.

    Advice Note: It is anticipated that the odour scouting will be able to occur on adjoining/adjacent properties, Where that is not possible, odour scouting will take place on the site boundary and publicly accessible areas.

16. The results of the odour scouting program set out in condition 15 shall be provided to the Taranaki Regional Council and to the NLG for their information within one month of the completion of the odour scouting programme. The results shall be accompanied by analysis by an independent and suitably qualified air quality.

17. In the event that the results of the odour scouting identifies adverse effects at adjoining dwellings, the consent holder shall, as soon as practicable and no later than two months after providing the odour scouting results to the Taranaki Regional Council (as required by condition 16) provide a programme of additional measures (if any) to be implemented to reduce odour emissions in accordance with Condition 4 (BPO).

18. Within three months of implementing any mitigation measures in condition 17, the consent holder shall test the efficacy of those mitigation measures by producing a report to the Taranaki Regional Council showing the results of further odour scouting over the duration of 2 bird rearing cycles conducted in accordance with the methodology described in Condition 15 with the mitigation measures in place. The results of such further odour scouting shall be accompanied by analysis by an independent and suitably qualified air quality expert.

19. In the event of a dust complaint (relating to discharges from within the property) and where the Taranaki Regional Council has confirmed the source of off-site dust effects as being from the property, an instrumental monitoring plan for PM_{10} shall be prepared by a suitably qualified air quality expert on behalf of the consent holder. The purpose of the monitoring is to provide the consent holder with real-time data to assist with the management and minimisation of any off-site dust effects in accordance with Conditions 4 and 13.

    The monitoring shall include real-time PM_{10} monitoring to demonstrate compliance within the maximum threshold value of a PM_{10} concentration of 150 micrograms per cubic metre, as a rolling 1-hour average updated every ten minutes. The monitoring plan shall be submitted to the Taranaki Regional Council for certification prior to implementation and within two months of the confirmed dust complaint. The Taranaki Regional Council will certify whether the location and methodology of the proposed monitoring will be likely to achieve the purpose of the monitoring.

20. The consent holder shall install and maintain a weather station on-site which measures as a minimum wind direction, wind speed, temperature and rainfall. The weather station shall be installed at a minimum height of 6 m above ground level and above any existing building structures.

Air Quality Management Plan Conditions

21. Within three months following the initial exercise of this consent, the Consent Holder shall provide the Taranaki Regional Council with an Air Quality Management Plan ("Management Plan") for the certification that the Management Plan meets the objective outlined in condition 22 and includes the matters specified in that condition.

    The Consent Holder shall provide the Taranaki Regional Council with written notice of any subsequent material revisions or amendments to the Management Plan.

22. The Air Quality Management Plan shall be prepared by a suitably qualified person and shall have the purpose of documenting the measures and procedures that will be implemented, with the objective of complying with conditions of this consent, including Conditions 4 and 13, so as to minimise the potential for adverse air quality effects beyond the boundary of the property. (irrespective of whether there is non-compliance with condition 13) The Management Plan shall include, but not be limited to the following matters:

    (i) Contact details and responsibilities of key personnel who are responsible for implementing the Management Plan.

    (ii) General odour and dust management procedures for the site;

    (iii) Identify potential sources of odour, dust and other air contaminants that may be emitted from the operation;

    (iv) Measures to be implemented to avoid, remedy or mitigate adverse effects of emissions from these sources;

    (v) Details of instrumental monitoring of shed conditions, including parameters to be measured, alert levels and response actions for alerts;

Consent 5262-3.0

(vi) The provision of contact details to neighbours for lodging complaints or feedback;

(vii) Procedures to minimise dust and odour emissions during litter load out including but not limited to:

a. Clean out will not take place at times where the following wind conditions are forecast to occur in the area (unless operational requirements such as bird placement become necessary):

i. Wind from directions between 10° and 235° (as a 1-hour average); or,

ii. Wind speeds of greater than 10 m/s (as a 1-hour average)

b. The use of misting devices at the end of the sheds where spent litter is being loaded out.

c. The minimisation of the duration of clean out operations for each shed and (so far as is compatible with paragraph (a) above) the minimisation of the duration of the overall operation.

(viii) Wind speed and wind direction as recorded by the onsite weather station shall be recorded and stored by the consent holder for a period of 12 months and provided to the Taranaki Regional Council and/or NLG upon request within that period.

(ix) Protocols to regularly assess litter moisture content and the best practicable steps to be taken to comply with the conditions of this resource consent;

(x) Protocols for maintenance of the climate control, heating and ventilation systems;

(xi) Details of contingency measures for significant potential odour or dust events;

(xii) Procedure for recording and responding to complaints relating to discharges to air. These procedures shall be generally in accordance with the procedures outlined in the Ministry for the Environment Good Practice Guide for Assessing and Managing Odour;

(xiii) Procedures to inform neighbouring property owners and occupiers of abnormal or isolated potential odour or dust events.

The poultry farm shall at all times be operated in general accordance with the current version of the Management Plan. In the event of any conflict or inconsistency between the conditions of this consent and the provisions of the Management Plan, then the conditions of this consent shall prevail.

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23. The Air Quality Management Plan prepared in accordance with Condition 22, shall be reviewed by a suitably qualified person every two years at a minimum, and shall be updated as required. The outcome of each review and any update shall be provided in writing to the Taranaki Regional Council Monitoring Team Leader for certification within three months of receipt of the review. A copy of the certified Air Quality Management Plan and any later updates shall be provided to the NLG for its information.

Review condition

24. 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:
    a) annually during the months of June – August, for the purpose of reviewing the effectiveness of the conditions of this resource consent in avoiding or mitigating any adverse effects on air quality caused by the exercise of this resource consent and if appropriate to add or amend conditions to better avoid, remedy or mitigate such effects.

    b) within 6 months of receiving a report required by condition 18 which shows that the operation has not complied with condition 13, for the purpose of imposing new or amended conditions to ensure that the site can operate without causing offensive or objectionable odour beyond the boundary.

Annexure 2: Neighbouring properties and dwellings within 400 m of the site

Annexure 3: The location of properties subject to no complaints covenants

Map 1:No opposition/complaints covenants in favour of Airport Farm

Covenant for no opposition/complaint

Consent Notice

Map 1 marks where there are interests on the title in favour of the Airport Farm land, consent or proprietor.

Orange circles represent covenants for no opposition or complaint. The red circle represents a Consent Notice.

The highlighted yellow area is Airport Farm land.

The Consent Notice (11506357.1) states: "That no habitable building shall be constructed within Lot 101 [DP 539349] while the land is zoned with the Rural Environment or equivalent zone"

Annexure 4: Minute of Commissioners of 24 March

Taranaki Regional Council

Resource consent application 5262-3.0

IN THE MATTER OF	The Resource Management Act 1991
AND	
IN THE MATTER OF	
AN APPLICATION BY	Airport Farm Trustee Limited
FOR	A discharge permit for discharges to air

Minute of Independent Commissioners: Philip Milne and John Iseli

24 March 2022

1. We appreciate, that the parties have useful discussions around a potential *Augier* condition relating to early expiry of the consent if granted.

2. We refer to Ms Booker's submissions in reply on behalf of the Applicant dated 18 March 2022. In particular, we refer to paragraph 72 and 75 (c).

3. We also refer to the response from Ms Wallace dated 23 March and in particular paragraphs 5 to7.

4. At this stage, we can indicate that in the absence of an appropriate earlier expiry condition, we are likely to grant consent for a term of 8 to 10 years. (We are still deliberating as to which of these would be more appropriate.)

5. We will provide our reasoning for the grant of consent and the duration in our decision. In short, however, we consider that it is reasonably foreseeable that the residential zoning of area Q3E will become live within 8 years and even more likely that it will be live within 10 years.

6. In terms of the offered Augier condition, we note that our concern is more with the timing of the residential zoning in area Q 3E becoming live, rather than with the zoning of area R. We appreciate however that the former is related to the latter.

7. We tend to prefer the wording advanced by Ms Wallace at 6 (b) since it is more closely related to the timing of area Q 3E residential becoming live.

8. If the Applicant agrees to such a condition, then in our view the consent term should be until June 2038 rather than June 2032 as proposed by NPDC.

9. We request that Counsel for the Applicant provide confirmation to us by **1pm on 26 March**, as whether the Applicant agrees to a condition in terms of Ms Wallace's para 6 (b), within the context of a final expiry date of June 2038.

10. If such a condition is unacceptable to the Applicant, or if the Applicant agrees to the wording proposed by Ms Wallace, we will close the hearing on Friday and proceed to finalise our decision.

11. If the Applicant wishes to advance any alternative wording by Friday, then we will allow other parties to comment on that by 1pm Monday, with the Applicant responding by 1pm Tuesday and will then close the hearing.

Commissioners Philip Milne and John Iseli

24 March 2022

Annexure 5: Summary of dispersion modelling

Attachment A: Update to AFTL odour dispersion modelling investigation

Introduction

This document describes details of results of additional odour dispersion modelling of odour emissions from the AFTL at 58 Airport Drive, Bell Block.

Model scenarios

Updated 99.5th percentile odour concentrations have been provided for the following emission scenarios:

1 Proposed free range operation at 15 birds/m^2 stocking density;

2 Existing conventional broiler operation operating within the effective operational peak density (35 kg/m^2);

3 Permitted activity (PA) 30,000 birds housed over sheds 1 and 2 with exhaust via the original horizontal exhaust vents;

4 Permitted activity (PA) 30,000 birds housed over sheds 1 and 2 with exhaust via the recently installed vertical 7m exhaust vents.

Model modifications

In order to address matters raised in the hearing and matters discussed with the submitters' air quality experts following the adjournment of the hearing, the following modifications to the model set up have been made:

- **Increased resolution of contour plots and consideration of curtilage receptors:** Revised contour plots have been provided encompassing a more focussed 500 m x 500 m area around the application site (including all submitter locations). As discussed further below, additional receptors have been included to represent exposure within the curtilage of properties. The location of these receptors has generally been based nearest accessible garden or yard areas to the shed discharges rather than any notional boundary.
- **Modelling of exposure of upper storey dwelling receptors:** An elevated (flagpole) receptor has been included (at a height of 6 m above ground level) at the McDonald dwelling at 62 Airport Drive to represent potential exposure at the upper floor of this dwelling.
- **Modifications to represent the impact of shelterbelt vegetation surrounding the site**: As it is not practicable to incorporate vegetation in the building downwash algorithm, as suggested by Mr Van Kekem the land use categorisations for areas lying over the boundary of the site have been modified to Forest Cover to account for the tall shelter belt vegetation. The resolution of the revised CALMET model has been increased from 100 m to 25 m.

Additional receptor details

Additional discrete receptors have been included to represent exposure in curtilage areas of submitter property and the nearest non-submitter properties.

An additional flagpole discrete receptor at a height of 6 m above ground level has been included to represent exposure at the upper floor of the McDonald dwelling at 62 Airport Drive. This receptor has been located at the nearest upper floor window based on photographs provided by Mr Van Kekem. As no multi-storey dwellings are located within 200 m of the exhaust discharges, no further elevated receptors have been included.

The updated discrete receptors are illustrated in the following figure.

Figure 1: Updated discrete model receptor locations. Submitter receptors are denoted in red, non-submitter receptors in cyan. Dwelling receptors are denoted as triangles, curtilage receptors as circles.

Increased CALMET modelling resolution and modifications to land use classifications at application site

The following modifications have been made to the CALMET meteorological model for the local area and the three-dimensional meteorological output has been used in the updated dispersion modelling investigations:

- The spatial resolution of the CALMET meteorological model has been increased from 100 m to 25 m in x and y (north and east) directions. This represents a very fine resolution for CALMET modelling. The scale of the CALMET model has been reduced to 3 km x 3 km to compensate for the increased resolution in terms of file sizes and processing times. The CALMET domain continued to encompass the New Plymouth AWS meteorological stations, surface observation data from which was continued to be incorporated into the updated CALMET model.

- Land use categorisation within each 25 m x 25 m cells across the CALMET model domain has initially been based on the Land Cover Database (LCDB) v5 published by Landcare Research. The land use categorisation of cells within the site and surrounding area has then been manipulated to reflect the impact of tall vegetation. In particular, land use categorisation of cells within and surrounding the site featuring shelterbelt vegetation or other tall trees has been manually classified as Forest Cover, which I consider appropriate to characterise the shelterbelt(s). Within the site, cells occupied by sheds or concrete hardstand have been manually classified as Urban Cover, reflecting the buildings and impervious surfaces consistent with built/urban environments. The land use categorisation of cells in the area surrounding the site has remained as Agricultural. The land use categorisation of the site and surrounding area is illustrated in Figure 2.
- The elevation of terrain within each cell has been derived from New Zealand 8m Digital Elevation Model (2012) data sourced from Land Information New Zealand (LINZ). Likewise the ground/base elevation of emission sources, buildings and receptors has been derived from this source.

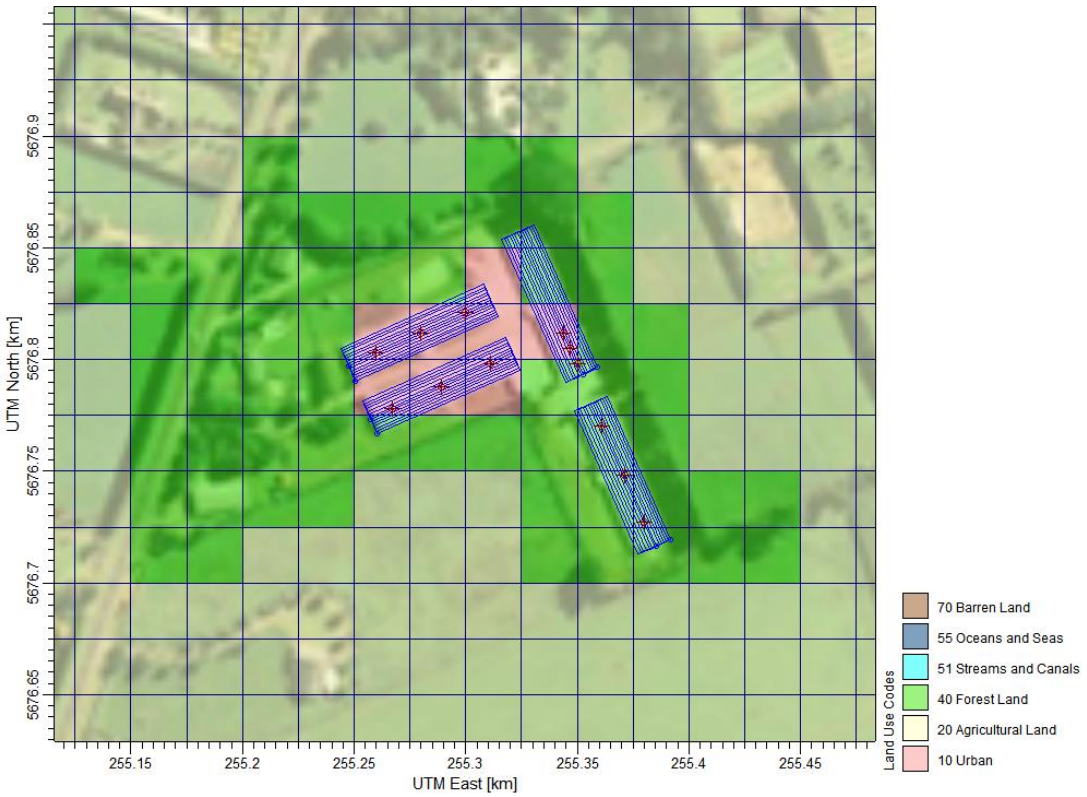


Figure 2: Land use categorisations used in the area surrounding the site in updated CALMET modelling

Model results

The following table provides summarises 99.5th percentile odour concentrations predicted in each scenario (at submitter and non-submitter receptor locations).

Prediction location	Predicted 99.5th percentile 1-hour average odour concentration (OU/m^3)			
	Proposed	Existing effective peak density	PA (horizontal vents)	PA (vertical 7m vents)
Maximum at submitter dwelling (inc. upper floor) or curtilage	3.3	6.9	3.6	2.6
Maximum at other dwelling or curtilage	4.1*	7.0*	3.5*	2.9**
Individual submitter predictions:				
62 Airport Dr (McDonald, inc. curtilage)	3.3	6.9	3.6	2.6
76 Airport Dr (Brown, inc. curtilage)	2.6	4.8	1.8	1.5
47 Airport Dr (Hibell, inc. curtilage)	1.7	3.4	1.5	1.0
40 Airport Dr (Brown, inc. curtilage)	1.6	2.5	1.1	0.9
35 Airport Dr (Poppa's Peppers, inc. curtilage)	1.2	2.1	0.8	0.8

* Predicted to occur at 69 Airport Drive

** Predicted to occur at 52 Airport Drive

The following contour plots illustrate the spatial distribution of 99.5th percentile 1-hour average odour concentrations associated with each of the four emission scenarios described above:

- Odour concentration contours are plotted increments of 1 OU/m^3 (yellow contours), and 5 OU/m^3 (orange contours) between 1 OU/m^3 and 10 OU/m^3.
- Submitter receptors are illustrated in red and non-submitter receptors as cyan.
- Dwelling receptors are illustrated as triangles, curtilage receptors as circles.

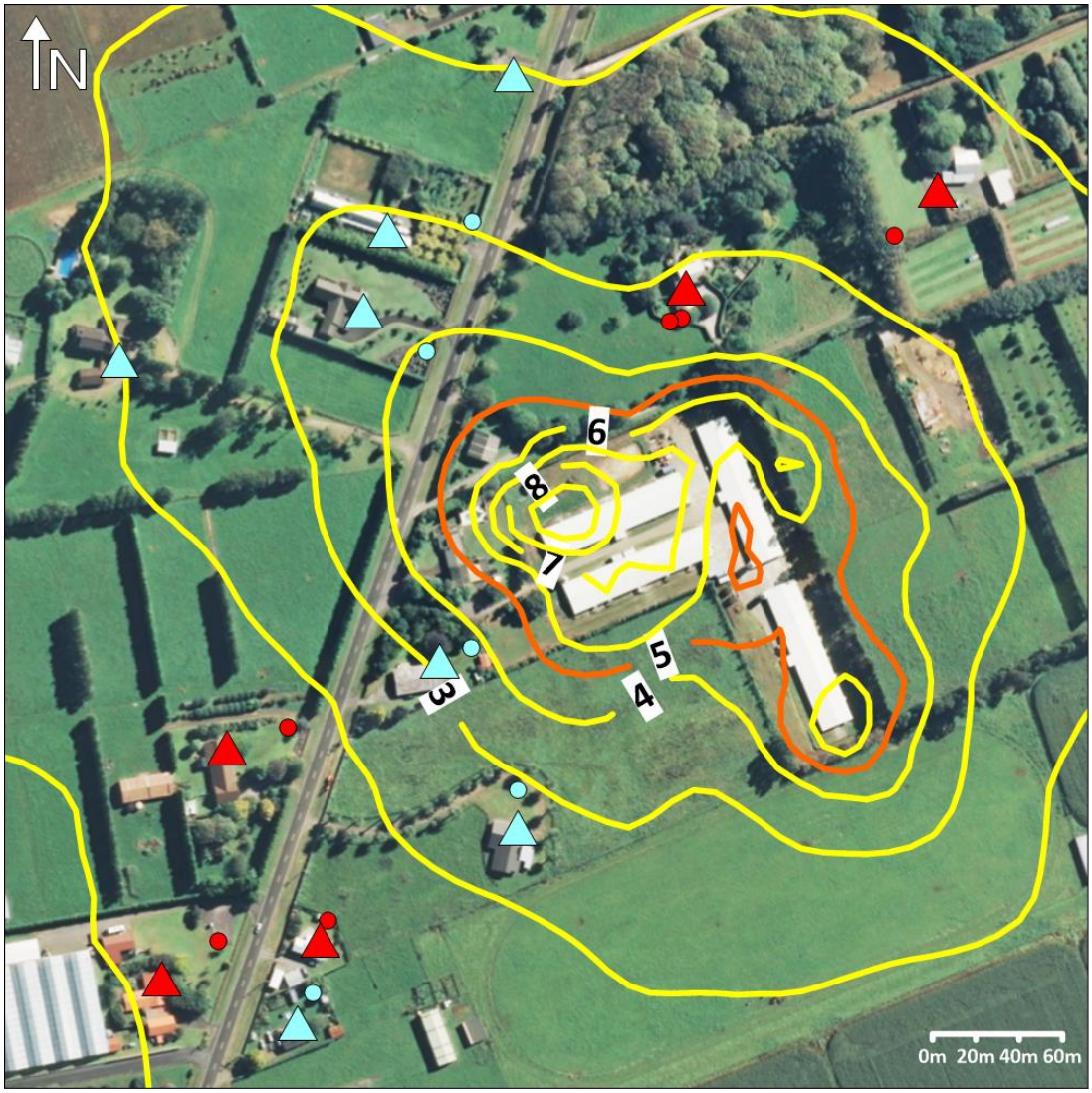


Figure 3: Proposed free range operation. Spatial distribution of 99.5th percentile 1-hour average odour concentrations associated with the proposed operation (including change to free range configuration and installation of roof vents). - 1 OU/m^3 increments denoted in yellow, 5 OU/m^3 increments denoted in orange

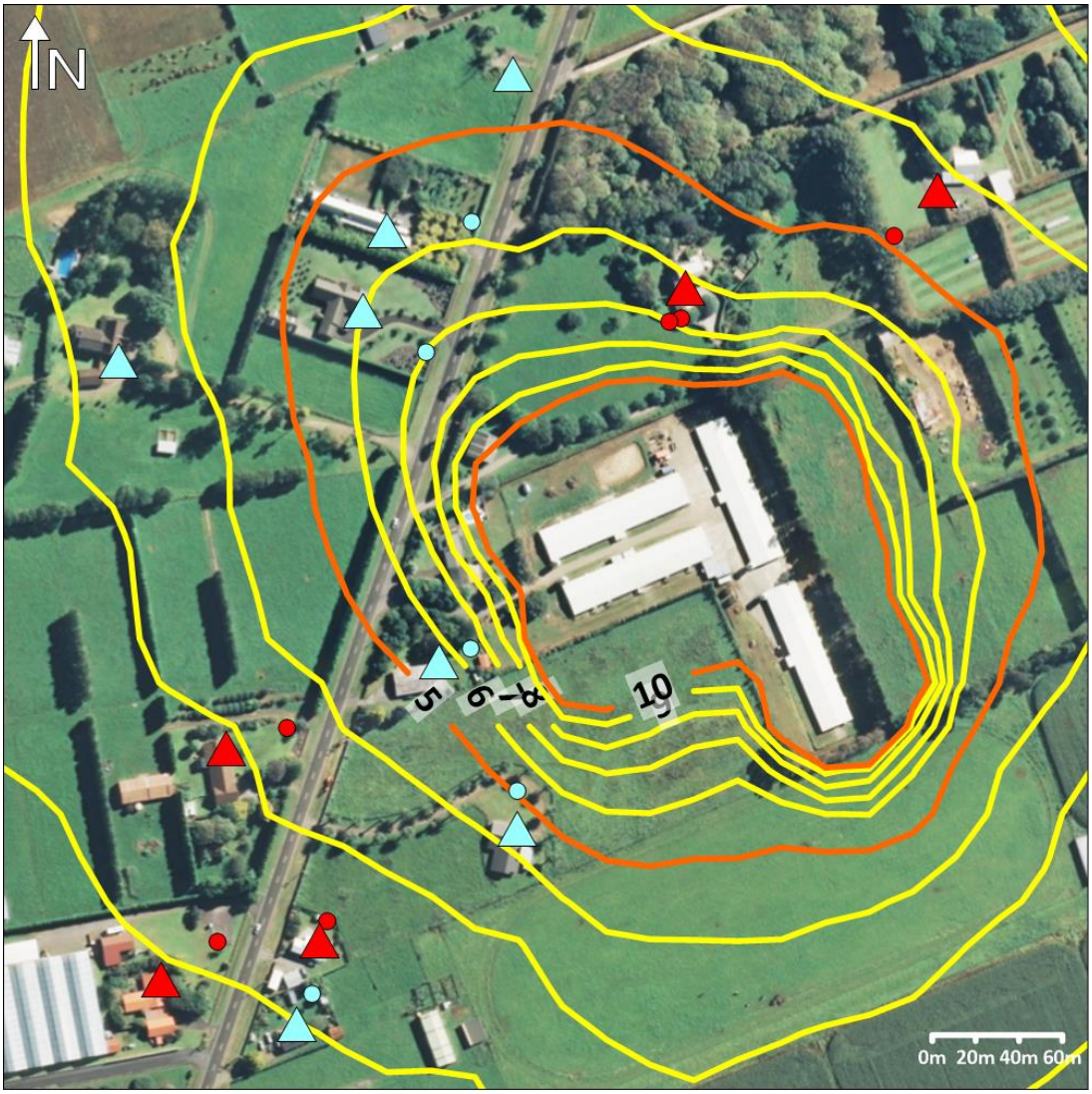


Figure 4: Existing conventional broiler operation at effective operational peak mass density (35 kg/m^2). Spatial distribution of 99.5th percentile 1-hour average odour concentrations. - 1 OU/m^3 increments denoted in yellow, 5 OU/m^3 increments denoted in orange

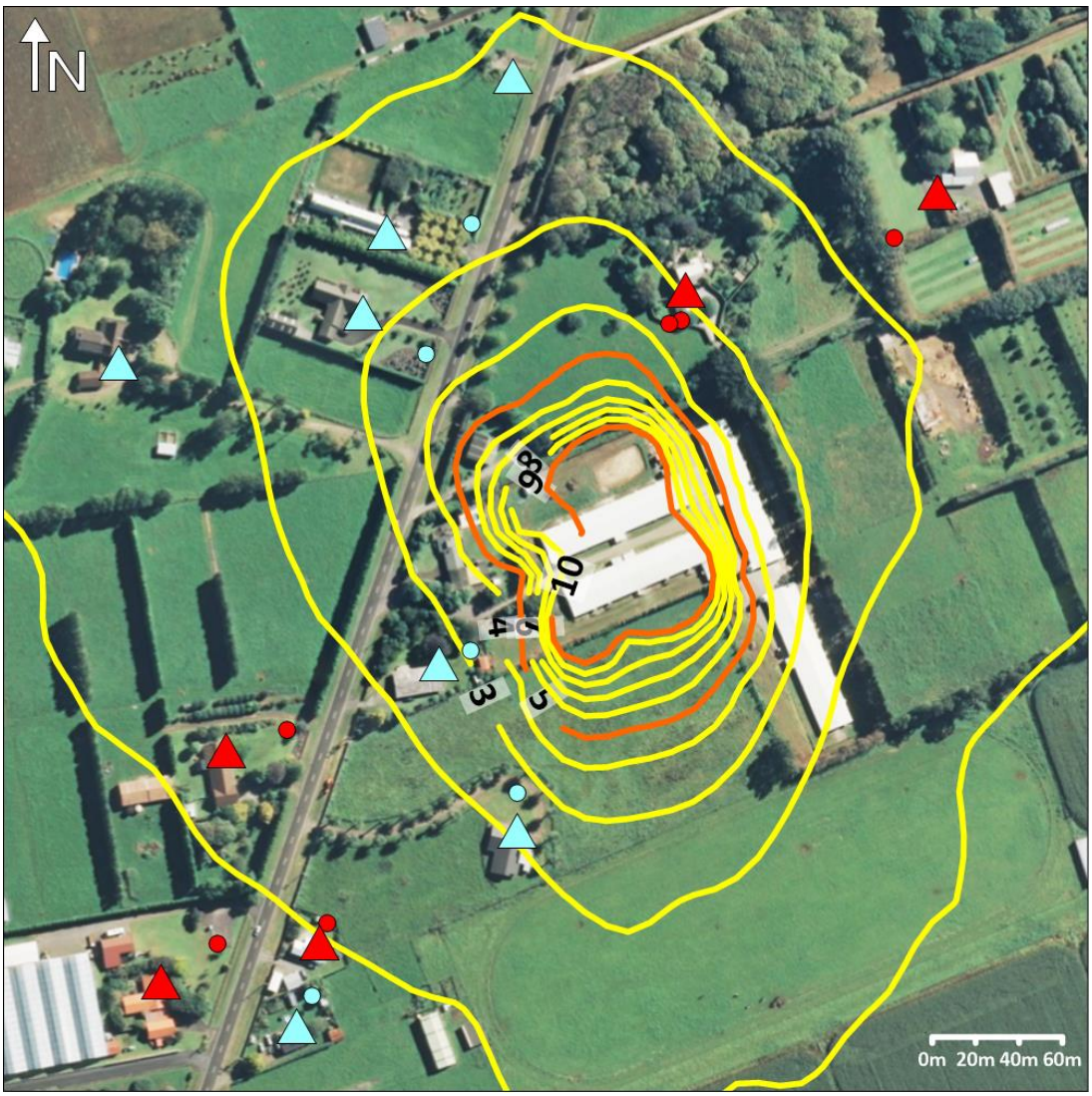


Figure 5: Permitted activity (PA) 30,000 birds housed in Sheds 1 and 2 with exhaust via horizontal exhaust vents. Spatial distribution of 99.5th percentile 1-hour average odour concentrations. - 1 OU/m^3 increments denoted in yellow, 5 OU/m^3 increments denoted in orange.

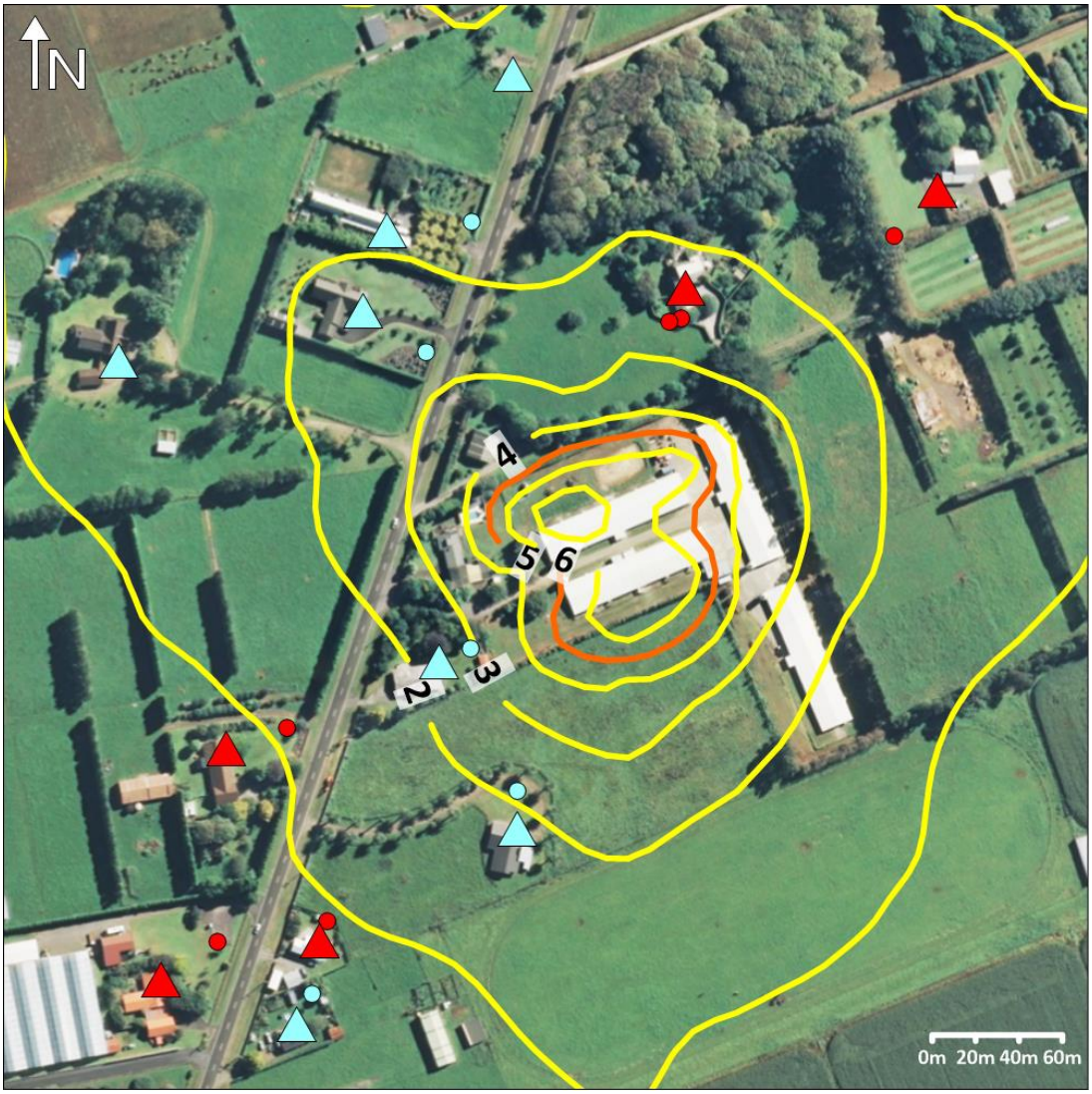
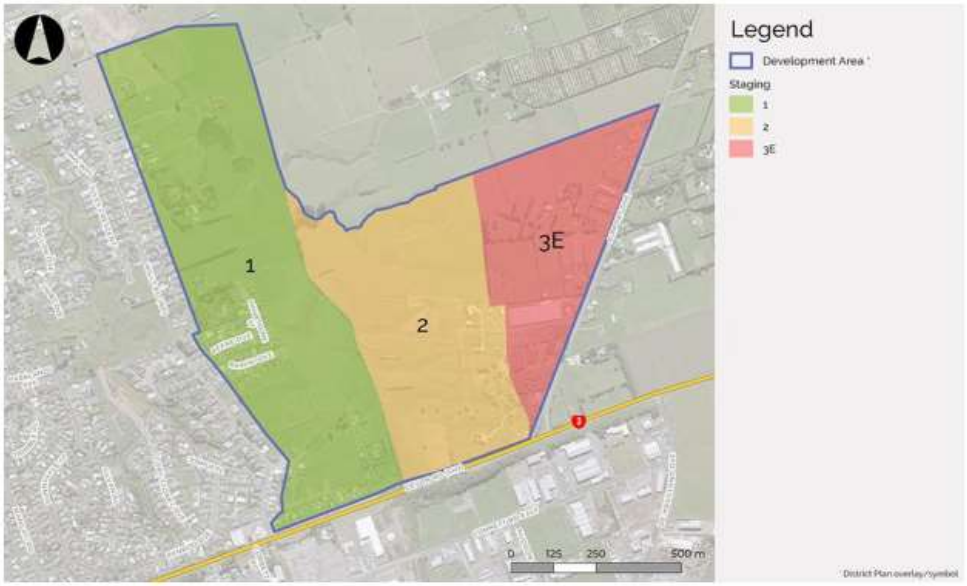
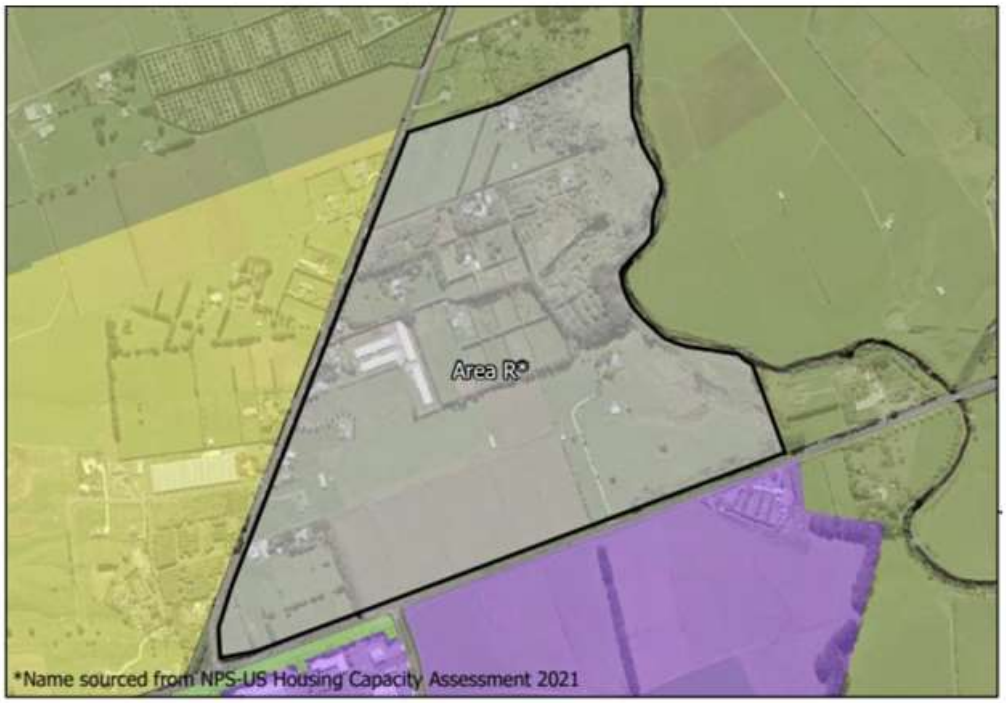


Figure 6: Permitted activity (PA) 30,000 birds housed in Sheds 1 and 2 with exhaust via vertical 7m exhaust vents. Spatial distribution of 99.5th percentile 1-hour average odour concentrations. - 1 OU/m^3 increments denoted in yellow, 5 OU/m^3 increments denoted in orange

Annexure 6: Zoning of the site and surrounds with the NPDC operative plan





ANNEXURE 7

Conditions marked up to generally show areas amended by Commissioners

General conditions

A. This consent expires on the earlier of the following dates:

a) 1 June 2038; or

b) on or after 1 June 2030 when:

(i) Airport Drive has been realigned and is

operational; and

(ii) Any part of area R (as shown in the current operative plan) has an operative or proposed urban zoning under the New Plymouth District Plan; and/or

(iii) any part of area Q3E in the Operative New Plymouth District Plan, has an operative and active (live) residential zoning.

B. Except where varied by the conditions of this consent, or where required to implement amendments to the Odour Management Plan, the operation of the poultry farm and associated discharges shall be in accordance with the information submitted with the application and the further information and evidence provided as part of the hearing. (In the event of any conflict, the most recent information shall apply.)

C. 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, 1991.

D. Upon commencement of this resource consent pursuant to section 116 Resource Management Act 1991, the consent holder will surrender its existing air discharge permit (RC 5262-2).

Special Conditions

1. This consent authorises emissions to air from up to four poultry sheds and associated free-range areas located and configured generally as shown in the application for this consent.

2. The total area of the four sheds used for intensively housing poultry shall not exceed 4,068 square metres, and each shed shall have an associated free-range area that is no less than the shed area.

3. The stocking intensity of poultry in any shed shall not exceed 15 birds per square metre at any time.

4. The consent holder shall, throughout the term of the consent, 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 into the air from the site, in particular, to address any acute or chronic odour effects at nearby dwellings and/or their curtilages. (This requirement applies irrespective of whether such effects are in breach of condition 13.)

5. Prior to undertaking any alterations to the poultry unit's processes, operations, equipment or layout, 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.

6. The consent holder shall minimise the emissions and impacts of contaminants discharged into air from the site by installation and implementation of:

   i) process equipment;

   ii) process control equipment and emission control equipment;

   iii) supervision and operation management;

   iv) management of the timing of litter removal to, so far as is practicable, avoid meteorological conditions most likely to cause odour effects at nearby dwellings (including their curtilages);

   v) the proper and effective operation, supervision, calibration, maintenance and control of all equipment and processes; and

   vi) the proper care of all poultry on the site in terms of litter management, bird care, and diet;

   as described in the application, or by subsequent improvement to those processes.

7. In particular, the consent holder shall install and operate -

   i) 3 roof ridgeline exhaust fans on each shed;

   ii) misting devices at the outlet of each of the ridgeline roof vents on each shed;

   iii) hot water indirect shed heaters in each shed;

   iv) devices to monitor the atmospheric conditions inside each shed, including but not limited to carbon dioxide, temperature, humidity and ammonia concentrations, and shall retain monitoring records for a period of three months beyond the end of each broiler rearing cycle.

8. The exit ports for the roof ridgeline fans shall be located at a minimum height of 7.0 metres above ground level, and the roofline fans on shed 3 shall be located at a minimum distance of 100 metres from the dwelling house at 62 Airport Drive.

9. The consent holder shall maintain a shelterbelt on or alongside the property's boundaries. The shelterbelt shall be in the form of a dense row of trees, which reach a height of at least 4.0 metres; or a windbreak to a height of 3.0 metres on the northern and southern boundaries in the absence of trees.

10. Within six months following the initial exercise of this consent and thereafter, natural ground cover shall be maintained over at least 70% of the range area of each shed.

11. The consent holder shall attend a Neighbourhood Liaison Group (NLG), to be convened and chaired by the Taranaki Regional Council, with meetings to be scheduled at least every six months until 1 December 2024 and thereafter at least every 12 months. The purpose of the NLG is to address any community concerns about the effects of operation of the farm, and to work with neighbours to try to develop acceptable means of addressing and managing any adverse effects and to review the implementation and effectiveness of these measures.

    All neighbours occupying a dwelling within a 400m radius of the site shall be invited to attend.

12. (a) The consent holder shall provide to the Taranaki Regional Council notification of a provisional schedule of bird capture and litter removal, at least 24 hours prior to the first bird capture at the end of each rearing cycle. Notification shall include the consent number, a brief description of the work, the intended commencement date and the likely

date of clean out operations. Unless the Chief Executive advises that an alternative method is required this notice shall be served by completing and submitting the 'Notification of work' form on the Council's website (http://bit.ly/TRCWorkNotificationForm).

(b) If requested by a TRC compliance officer, the consent holder shall inform the officer at least one hour prior to the commencement of any clean out operation at any of the sheds.

(c) The consent holder shall keep a record of the timing of all shed clean out operations and the meteorological conditions occurring during those times. Such records shall be retained for at least 3 months following each shed clean out and provided to the TRC on request.

Odour & Dust Conditions

13. The discharge authorised by this consent shall not give rise to any odour or dust discharge that is noxious, dangerous, offensive or objectionable at any location beyond the boundary of the property. (The boundaries of the property are as shown in the application report 'Airport Drive Free Range Poultry Farm Odour Assessment, June 2021', Tonkin and Taylor.)

14. The consent holder shall document any complaints of offensive odour or dust notified to it at any time after the issue of this consent and shall provide details of each complaint to Taranaki Regional Council as soon as possible and in all cases within 24 hours of the receipt of the complaint. It shall retain the documentation for the duration of the consent, and shall make the record available upon request to (i) the complainant, and (ii) the Taranaki Regional Council. In order to be documented, any complaint made must provide the name of the complainant (if provided) together with the date and the location, at which the alleged event occurred. Unless the Chief Executive advises that an alternative method is required this notice shall be served on the Regional Council by completing and submitting the 'Notification of work' form on the Council's website (http://bit.ly/TRCWorkNotificationForm).

    Advice Note: It is expected that the Taranaki Regional Council will be the initial contact point (0800 736 222) for any complaints/allegations regarding the operation of the site. The consent holder could be notified within the same complaint/allegation.

15. The consent holder shall prepare and implement an independent odour scouting programme with the objective of determining whether it is likely or not that chronic or acute odour effects are occurring beyond the boundary. The odour scouting programme shall run between 1 November 2022 to 31 March 2023 such that it includes monitoring during at least two full bird rearing cycles. One or more further odour scouting programs may be required by the Taranaki Regional Council if it deems that to be appropriate.

    The purpose of the programme is to confirm compliance or otherwise with Condition 13 and to identify any chronic or acute odour effects at any nearby off-site dwellings and their curtilages.

    The programme shall meet the following criteria:

    a) The odour scouting programme shall be developed by an independent and suitably qualified air quality expert and certified as suitable to meet its purpose by the Taranaki Regional Council and shall be provided to the NLG for its information;

    b) The independent air quality expert shall provide the necessary training to independent people who have been selected to undertake observations;

c) Odour scouting shall take place over a minimum of two bird rearing cycles;

d) Odour scouting must be undertaken at a frequency that is representative of the entire cycle including specific events during the cycle such as bird catching and shed clean out.

Advice Note: It is anticipated that the odour scouting will be able to occur on adjoining/adjacent properties, Where that is not possible, odour scouting will take place on the site boundary and publicly accessible areas.

16. The results of the odour scouting program set out in condition 15 shall be provided to the Taranaki Regional Council and to the NLG for their information within one month of the completion of the odour scouting programme. The results shall be accompanied by analysis by an independent and suitably qualified air quality expert to confirm compliance or otherwise with Condition 13 and to identify any chronic or acute odour effects at any nearby off-site dwellings and their curtilages (to the extent that the odour scouting has been able to occur at such locations).

17. In the event that the results of the odour scouting identifies adverse effects at adjoining dwellings such that there is a chronic adverse odour effect or a breach of Condition 13, the consent holder shall, as soon as practicable and no later than two months after providing the odour scouting results to the Taranaki Regional Council (as required by condition 16) provide a programme of additional measures (if any) to be implemented to reduce odour emissions to ensure compliance with Condition 13 and Condition 4 (BPO) to minimise the risk of any further chronic or acute odour effects at nearby dwellings or their curtilages.

18. Within five months of implementing any mitigation measures in condition 17, the consent holder shall test the efficacy of those mitigation measures by producing a report to the Taranaki Regional Council showing the results of further odour scouting over the duration of 2 bird rearing cycles conducted in accordance with the methodology described in Condition 15 with the mitigation measures in place. The results of such further odour scouting shall be accompanied by analysis by an independent and suitably qualified air quality expert.

19. In the event of a dust complaint (relating to discharges from within the property) and where the Taranaki Regional Council has confirmed the source of off-site dust effects as being from the property, an instrumental monitoring plan for PM_{10} shall be prepared by a suitably qualified air quality expert on behalf of the consent holder. The purpose of the monitoring is to provide the consent holder with real-time data to assist with the management and minimisation of any off-site dust effects in accordance with Conditions 4 and 13.

    The monitoring shall include real-time PM_{10} monitoring to demonstrate compliance within the maximum threshold value of a PM_{10} concentration of 150 micrograms per cubic metre, as a rolling 1-hour average updated every ten minutes. The monitoring plan shall be submitted to the Taranaki Regional Council for certification prior to implementation and within two months of the confirmed dust complaint. The Taranaki Regional Council will certify whether the location and methodology of the proposed monitoring will be likely to achieve the purpose of the monitoring.

20. The consent holder shall install and maintain a weather station on-site which measures as a minimum wind direction, wind speed, temperature and rainfall. The weather station shall

be installed at a minimum height of 6m above ground level and above any existing building structures.

Air Quality Management Plan Conditions

21. Within three months following the initial exercise of this consent, the Consent Holder shall provide the Taranaki Regional Council with an Air Quality Management Plan ("Management Plan") for the certification that the Management Plan meets the objective outlined in Condition 22 and includes the matters specified in that condition.

    The Consent Holder shall provide the Taranaki Regional Council with written notice of any subsequent material revisions or amendments to the Management Plan.

22. The Air Quality Management Plan shall be prepared by a suitably qualified person and shall have the purpose of documenting the measures and procedures that will be implemented, with the objective of complying with conditions of this consent, including Conditions 4 and 13, so as to minimise the potential for adverse air quality effects beyond the boundary of the property (irrespective of whether there is non-compliance with Condition 13) The Management Plan shall include, but not be limited to the following matters:

    (i) Contact details and responsibilities of key personnel who are responsible for implementing the Management Plan.

    (ii) General odour and dust management procedures for the site;

    (iii) Identify potential sources of odour, dust and other air contaminants that may be emitted from the operation;

    (iv) Measures to be implemented to avoid, remedy or mitigate adverse effects of emissions from these sources;

    (v) Details of instrumental monitoring of shed conditions, including parameters to be measured, alert levels and response actions for alerts;

    (vi) The provision of contact details to neighbours for lodging complaints or feedback;

    (vii) Procedures to minimise dust and odour emissions during litter load out including but not limited to:

        a. Clean out will not take place at times where the following wind conditions are forecast to occur in the area (unless operational requirements such as bird placement become necessary):

            i. Wind from directions between 10° and 235° (as a 1-hour average); or,

            ii. Wind speeds of greater than 10 m/s (as a 1-hour average)

        b. The use of misting devices at the end of the sheds where spent litter is being loaded out.

        c. The minimisation of the duration of clean out operations for each shed and (so far as is compatible with paragraph (a) above) the minimisation of the duration of the overall clean out operation.

(viii) Wind speed and wind direction as recorded by the onsite weather station shall be recorded and stored by the consent holder for a period of 12 months and provided to the Taranaki Regional Council and/or NLG upon request within that period.

(ix) Protocols to regularly assess litter moisture content and the best practicable steps to be taken to comply with the conditions of this resource consent;

(x) Protocols for maintenance of the climate control, heating and ventilation systems;

(xi) Details of contingency measures for significant potential odour or dust events;

(xii) Procedure for recording and responding to complaints relating to discharges to air. These procedures shall be generally in accordance with the procedures outlined in the Ministry for the Environment Good Practice Guide for Assessing and Managing Odour;

(xiii) Procedures to inform neighbouring property owners and occupiers of abnormal or isolated potential odour or dust events.

The poultry farm shall at all times be operated in general accordance with the current version of the Management Plan. In the event of any conflict or inconsistency between the conditions of this consent and the provisions of the Management Plan, then the conditions of this consent shall prevail.

23. The Air Quality Management Plan prepared in accordance with Condition 22, shall be reviewed by a suitably qualified person every two years, at a minimum, and shall be updated as required. The outcome of each review and any update shall be provided in writing to the Taranaki Regional Council Monitoring Team Leader for certification within three months of receipt of the review. A copy of the certified Air Quality Management Plan and any later updates shall be provided to the NLG for its information.

Review condition

24. 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:

a) annually during the months of June – August, for the purpose of reviewing the effectiveness of the conditions of this resource consent in avoiding or mitigating any adverse effects on air quality caused by the exercise of this resource consent and if appropriate to add or amend conditions to better avoid, remedy or mitigate such effects.

b) within 6 months of receiving a report required by condition 18 which shows that the operation has not complied with condition 13, for the purpose of imposing new or amended conditions to ensure that the site can operate without causing offensive or objectionable odour beyond the boundary.

AGENDA AUTHORISATION

Agenda for the Consents and Regulatory Committee meeting held on Tuesday 7 June 2022.

Confirmed:

1 Jun, 2022 4:44:28 PM GMT+12

A J Matthews
Director-Environment Quality

Approved:

31 May, 2022 2:35:55 PM GMT+12

S J Ruru
Chief Executive