

BEFORE THE INDEPENDENT HEARINGS COMMISSIONERS
APPOINTED BY THE TARANAKI REGIONAL COUNCIL

IN THE MATTER OF

the Resource Management Act 1991
(‘the Act’)

AND

IN THE MATTER

of the proposal by Airport Farm
Trustees to renew an air discharge
consent for the poultry farming
operation at 58 Airport Drive, New
Plymouth

STATEMENT OF REBUTTAL PLANNING EVIDENCE OF CAMERON JOHN TWIGLEY

16 February 2022

INTRODUCTION

1. My name is Cameron John Twigley.
2. I hold the position of Director, Planning and Environment at BTW Company Ltd, a multidisciplinary consultancy based in New Plymouth and Hamilton.
3. This statement of rebuttal evidence is given on behalf of submitters Brent Dodunski, Nigel Williams, Barbara McKay and Tama Trustees 369 Limited, Central Football, Judy Erb, Neil and Lloma Hibell, Poppas Peppers 2009 Limited, Kevin and Glenis McDonald, Gavin and Marion Struthers and Rod and Karen Brown.
4. My evidence pertains to planning matters.

QUALIFICATIONS AND EXPERIENCE

5. My qualifications and experience are outlined in my evidence in chief dated 08 February 2022.

EXPERT WITNESS CODE OF CONDUCT

6. As per my evidence in chief, this statement of evidence has been prepared in accordance with the Code of Conduct for Expert Witnesses.

SCOPE OF REBUTTAL EVIDENCE

7. This statement of evidence confirms my evidence in chief and responds to planning matters raised in the legal submissions, rebuttal evidence for the applicant and questions asked of the applicant by the Commissioners during day one of the hearing.

RULE 52 or RULE 54

8. I stand by my opinion that the one entry standard for Rule 52 is a strict standard in that the nature and scale of the effects of the activity must be unchanged from that of the existing consent that is to be replaced or renewed. My understanding of the meaning of the word unchanged is that it means 'not changed' or 'unaltered'. In my experience a well drafted standard should be certain and measurable so that it can be easily understood whether an activity meets a standard or not. In this case if the standard was designed to allow for a case where the nature and scale of the effects of the activity were reduced then in my opinion it would have stated this. My understanding of the evidence of the air quality experts and Mr Whiting is that there will be changes to the nature and scale of the

effects of the activity through the changes to free range farming. In my opinion, read plainly, the proposal does not meet the entry standard to be considered under Rule 52 and therefore should be considered under Rule 54 as a discretionary activity.

9. Some of the questioning of the applicant and Mr Grieve in the hearing related to whether it makes any difference whether the proposal is considered as a restricted discretionary or a discretionary activity. –
10. Ms Booker and Mr McDean on behalf of the applicant made the argument that the application should be considered under Rule 52 and that the matters of discretion do not allow for consideration of future intensification of the surrounding environment. While I disagree with this position, it clearly does make a difference to the case the applicant is putting forward, whether the application is considered as a restricted discretionary activity or a discretionary activity.
11. I also consider that in any consent application process it is vitally important to accurately identify which rule is the correct rule as it sets a frame for consideration of the whole application.

Rule 52 - Matters of Discretion

12. If the Commissioners consider that the application should be considered under Rule 52, in my opinion there are a number of matters of discretion that would allow for consideration of future zoning and land use issues. These matters are:

a).duration of consent

The future zoning and land use within Area Q and R is at the heart of any consideration of the duration of consent. I note that in terms of duration of consent the Quality Planning website offers the following guidance (underline is my emphasis):

‘The basic consent duration provisions are specified in s123. The duration of consent is often used as a method to address uncertainty about adverse effects for consents other than land use or subdivision consents and coastal permits for reclamation (which have unlimited duration).

When a consent duration condition is being considered, regard should be given to:

- the intended duration of an activity or structure, and
- the sensitivity of a receiving environment over time.

c) Effects relating to odour and dust and loss of amenity of air

In my opinion this should include a consideration of the sensitivity of the receiving environment over time taking into account likely changes in zoning and land use.

e) Best practicable option to prevent or minimise any adverse effects on the environment

The BPO requires a consideration of the nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects.

f) Any matter contained in Appendix V

Appendix F highlights the issue of reverse sensitivity and potential land use conflict related to changes in zoning and land use controls.

FUTURE ENVIRONMENT

13. Ms Booker has argued that no weight can be given to matters which do not form part of the existing environment. In my opinion this is a very narrow approach to take in respect of this application for early replacement of the existing consent.
14. It is commonly accepted in the planning profession that good land use planning requires foresight and having an 'eye to the future'. The poultry farm operation (and arguably its proposed changes) already has consent through to 2026 so, as I have stated in my evidence in chief, the application requires consideration of whether it is appropriate to allow the operation to continue beyond 2026, and if so, for how long. In my opinion it would be artificial and not in the best interests of sustainable management to make a decision on extending the discharge beyond 2026 by only considering the environment as it exists now.
15. Section 104(1) RMA, subject to Part 2, requires consideration of any relevant provisions of a Plan or Proposed Plan. In my view the Operative New Plymouth District Plan (ODP) and the Proposed New Plymouth District Plan (PDP) have strategic provisions that are relevant to this application and need to be considered. I also stand by my position that the National Policy Statement for Urban Development (NPS-UD) is also a relevant consideration.
16. In terms of Part 2, Section 5 of the RMA (purpose of the Act) requires consideration of the reasonably foreseeable needs of future generations when making an overall consideration of whether a proposal meets the purpose of the Act. My understanding is that Part 2 matters are designed to govern the exercise of every function and power under the Act.

*outlined
in statement
in chief*

17. The NPS-UD, ODP and the PDP are key statutory documents that consider and plan for the reasonably foreseeable needs of future generations in respect of land required for housing and business development in the New Plymouth District, amongst other things. In my opinion you should not ignore these documents as Ms Booker has suggested¹.
18. I also note that the future zoning and land use could be considered under section 104(1)(c), if these matters were considered to be relevant and reasonably necessary to determine the application, which I consider they are.

LACK OF CERTAINTY AS TO FUTURE ENVIRONMENT

19. Ms Booker and Mr McDean are critical of my evidence in terms of the lack of certainty that is provided as to the future environment.
20. In my opinion any lack of uncertainty as to the future environment is partly of the applicant's making. While I acknowledge they are entitled to apply for an early replacement of consent, if they had followed a more conventional approach of applying closer to 6 months before the expiry of consent then the future environment we are now considering would be more certain.
21. I agree with Mr McDean's evidence that there is no fixed date for rezoning. I agree with his comment made in the hearing that sometimes things happen slower and sometimes they happen faster. However, we are required as experts to provide our opinion as to what we do know (facts), and in this case I also consider it is helpful to the Commissioners to offer opinion evidence on when future infrastructure developments and rezoning are likely to occur. I note that Mr McDean has not offered an opinion and instead has stated that he does not disagree with the facts provided in Ms Williams and my evidence given we are local planners more experienced in local planning matters.
22. In my evidence, and Ms Williams, we stated a number of facts related to the future rezoning and land use. I reiterate that a key enabler for the rezoning of Area R and future development of Area Q is the Airport Drive realignment. I have attached a recent information sheet from Waka Kotahi on the Waitara to Bell Block Safety Improvements as **Annexure A** of my evidence. I have also attached a recent update from NPDC's roading team on when they expect the Airport Drive realignment to be completed (see **Annexure B**). This information confirms summer 2022/2023 earliest and summer 2024/2025 latest for the road realignment. This information continues to align with my evidence in chief.

¹ Paragraph 29, Legal Submissions on behalf of Airport Farm Trustee Limited, 15 February 2022

23. As stated in my evidence in chief the Airport Drive realignment allows for the rezoning of Area R, which in turn allows for the further development of Area Q, including the subdivision and development of Stage 3A of Area Q, which is opposite the poultry farm and partly within the 300 m buffer. Given the current impediments to further development within Area Q it is imperative to NPDC to rezone Area R.
24. While I acknowledge that I cannot be absolutely certain as to when a Plan Change for Area R would be notified, I stand by my opinion it would be reasonable to expect it to be notified by the end of 2026.

OTHER PLANNING MATTERS

25. I noted some discussion in the hearing about proposed provisions in the PDP restricting the erection of dwellings within 400 m of poultry farms. I can clarify that proposed effects standard RPROZ-S2 requires a minimum building setback as follows:
- 4. From established intensive indoor primary production buildings and structures:*
- a. sensitive activities on any other site: 400m*
- 5. From the boundary of a site zoned as Future Urban:*
all buildings and structures: 100m
26. However, this applies where the underlying zone is a Rural Production Zone, therefore would not apply when Area R is rezoned. These effects standards are not yet operative.
27. In terms of the comment in paragraph 49 of Ms Booker's legal submissions about TRC having a well-established and accepted practice of ensuring common consent expiry dates for catchments, I am aware of this being applied for freshwater catchments but question whether the same approach applies, or is necessary to apply, for air catchments in Taranaki.

Dated this 16th Day of February 2022.



Cameron John Twigley

ANNEXURE A – WAKA KOTAHI INFORMATION SHEET

3 Waitara to Bell Block Safety Improvements

Kia whakahaumaru tēnei rori



Waka Kotahi NZ Transport Agency is working towards a future where nobody is killed or seriously injured in crashes in Aotearoa.

State Highway (SH3) between Waitara and Bell Block is an important route for commuters, local communities and freight, but too many friends and whanau have lost their lives or been injured travelling on this road.

Seventeen people died and 24 were seriously injured between 2015 and 2020.

Many of these crashes occurred when people failed to give way or lost control at the intersections of Princess Street, Waitara Road, SH3A (Mountain Road) and Airport Drive.

We've been working with our project partners Manukorihi, Ngāti Rahiri, Otaraua, Pukerangiora and Puketapu Hapū and Te Kotahitanga o Te Atiawa and New Plymouth District Council to progress safety improvements for this route, including roundabouts for the high-risk intersections, other intersection improvements, median barrier, wide centrelines and rumble strips.

Following the commitment of additional funding for the project in July this year, we are aiming to start construction of the Princess Street Roundabout this summer.

Background

In 2018, we engaged with the community, transport representatives, emergency services and councils to investigate safety improvements for SH3 between Waitara and Bell Block.

Designs for safety improvements were developed, but we were unable to secure funding to progress the project further at that time.

In February 2019, the government committed \$29 million towards the project. We began detailed design of the safety improvements with the intention of applying for additional funding required for construction from the National Land Transport Programme. Some early safety improvements were also made to the route, and following public consultation, the speed limit was made a consistent 80km/h.

Investigative and early design works identified some challenges associated with the initial designs for the intersection improvements, including significant stormwater, land and funding requirements.

On discovering it would take several years to progress the original roundabout concept designs to construction, we worked with New Plymouth District Council and iwi to refine the designs.

The refined roundabout concepts are slightly reduced in size but they will achieve the safety benefits we are aiming for and are appropriate for current and future traffic volumes. We have taken into account the feedback the community provided in 2018.

Princess Street Roundabout - draft design

We are planning to build the roundabout at Princess Street first as this intersection has the highest safety risk.

There were 17 crashes at this intersection in the last five years - more than any of the other intersections along the route.

This intersection provides access on and off the highway for the 7000 Waitara residents.

There are currently 8500 vehicles on average using this intersection daily. Over the next 25 years, we expect this number to grow to about 13,500.

The new roundabout will make this intersection much safer for the Waitara community and everyone using the road.



Princess Street Underpass

An underpass will also be built as part of the Princess Street intersection upgrade to provide safer access across the highway for pedestrians and cyclists.

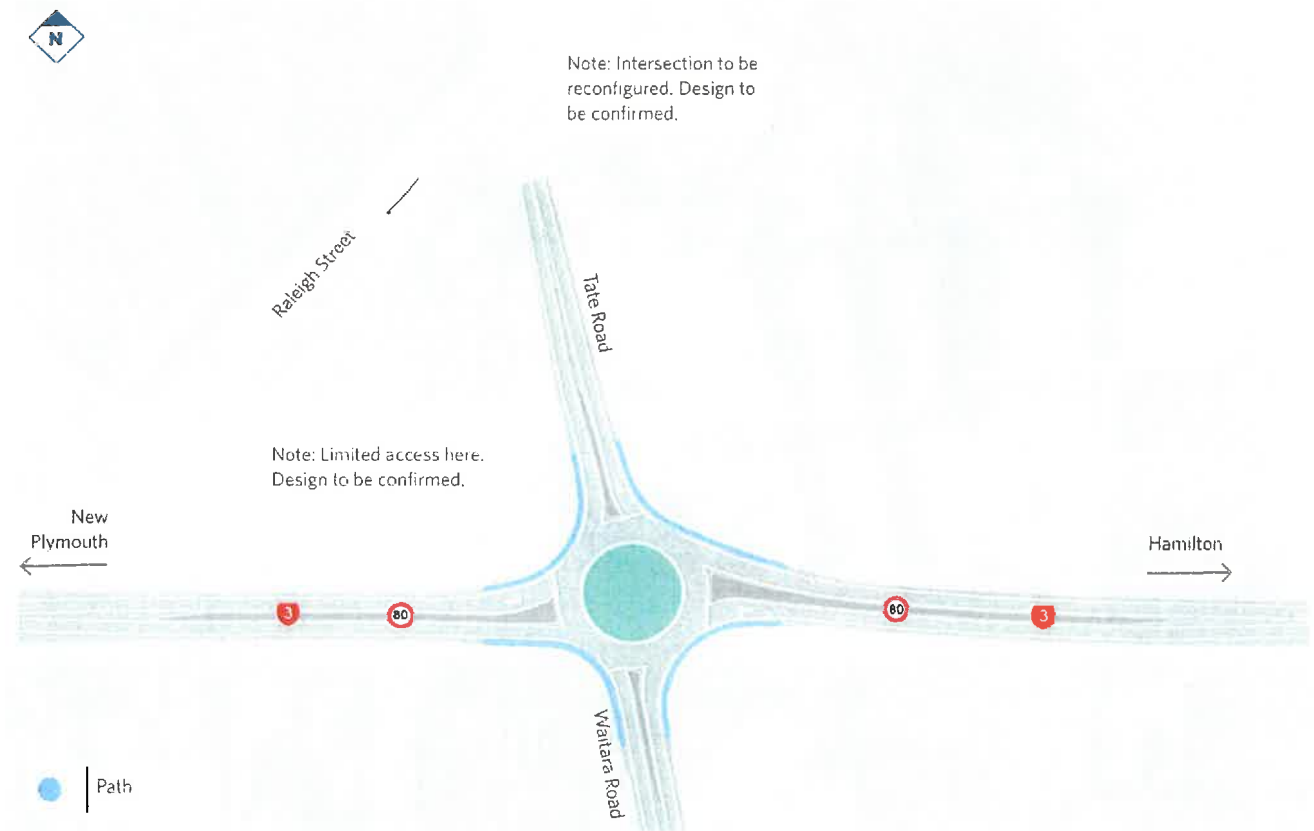
Making sure people feel safe using the underpass has been a key priority of the design. The intersection and underpass will be lit at night, and it is designed so users can see right through the underpass before entering.

Managing stormwater at Princess Street

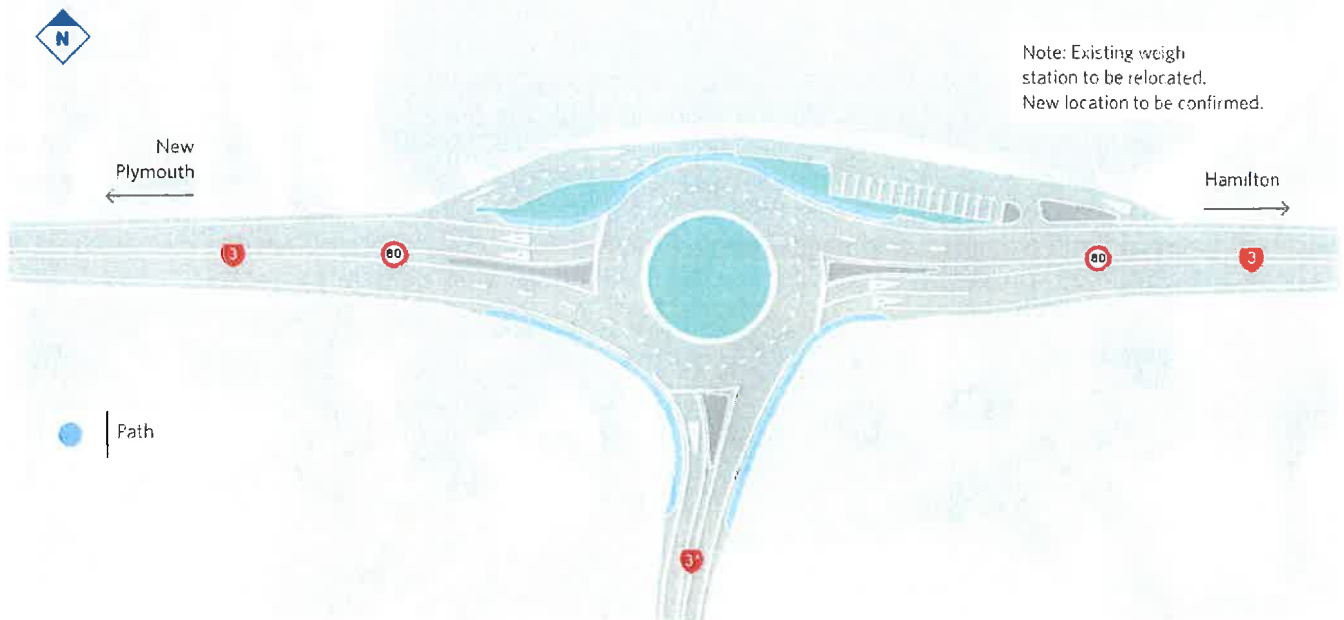
As part of this project we are working with our project partners to incorporate significant improvements to stormwater management in the catchments near Princess Street. This work is being coordinated with other New Plymouth District Council-led stormwater improvements in Waitara. Our aim is to start constructing these stormwater improvements before Christmas.



Waitara Road Roundabout concept



SH3A (Mountain Road) Roundabout concept



Road to Zero - our road safety strategy

SH3 Waitara to Bell Block safety improvements are delivering to New Zealand's Road Safety Strategy, Road to Zero 2020 - 2030, which aims to reduce the number of people killed or seriously injured on our roads by 40% over the next decade.

De Havilland Drive Roundabout concept



Flexible safety barriers - your safety net

Once the roundabouts are built, we'll install flexible median barrier on some sections of the road to prevent head-on crashes.

We know that flexible median barriers work at keeping people safe. They stand between you and oncoming traffic. This means if someone loses control or drifts across the centreline, the result isn't a deadly head-on crash.

Flexible road safety barriers 'catch' vehicles that leave their lane before they hit something less forgiving - like other vehicles or roadside hazards such as trees, poles and ditches.

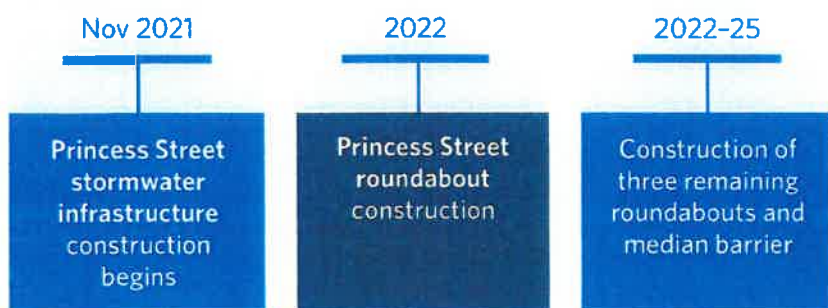
When a vehicle hits a barrier, the high-tension wire cables flex, slowing down the vehicle and keeping it upright during and after a collision.

The barrier absorbs the impact, reducing the force on the people in the vehicle. Flexible road safety barriers are designed so they don't penetrate the passenger compartment of a vehicle.

When the barriers are in place, there will be changes to how some people access their properties.

Closer to the time, we'll consult with residents and property owners on the changes and make safety improvements to their accessways if required.

What's happening when?



* The order of construction of the roundabouts other than Princess Street isn't yet confirmed. We will decide the order once we have a better understanding of timeframes for obtaining consents and land at each of the intersections.

Have questions or want to share your views? Get in touch

Email: w2bb@nzta.govt.nz

Phone: 021 502 193

Community drop-in information sessions will be held in November if COVID-19 alert levels permit.

Sign up to receive email updates and find further information about the project at www.nzta.govt.nz/w2bb

**ANNEXURE B – EMAIL CORRESPONDENCE FROM NPDC’S ROADING
TEAM**

Cam Twigley

From: Rowan Williams <rowan.williams@npdc.govt.nz>
Sent: Sunday, 13 February 2022 11:31 am
To: Cam Twigley
Cc: Lauren Wallace
Subject: Fwd: Airport Drive roundabout
Attachments: image001.png

EXTERNAL MESSAGE

Sent from my iPhone

Begin forwarded message:

From: Tracey Mitchell <Tracey.Mitchell@npdc.govt.nz>
Date: 13 February 2022 at 11:28:10 AM NZDT
To: Juliet Johnson <Juliet.Johnson@npdc.govt.nz>, David Langford <David.Langford@npdc.govt.nz>, Rui Leitao <Rui.Leitao@npdc.govt.nz>
Cc: Rowan Williams <rowan.williams@npdc.govt.nz>
Subject: RE: Airport Drive roundabout

Hi All,

The latest from Waka Kotahi is a vague commitment to look at designing the De Havilland Round About at the same time as the Brixton one (they haven't started this though). Then predicting likely construction next summer, but I don't think they will have enough resources to build both in a summer. Current prediction therefore is, best case summer of 22/23, worse case summer of 23/24.

Tracey

From: Juliet Johnson
Sent: Friday, 11 February 2022 5:37 pm
To: David Langford <David.Langford@npdc.govt.nz>; Rui Leitao <Rui.Leitao@npdc.govt.nz>
Cc: Rowan Williams <rowan.williams@npdc.govt.nz>; Tracey Mitchell <Tracey.Mitchell@npdc.govt.nz>
Subject: Airport Drive roundabout

Hi guys

In regards to Airport Drive new roundabout do we have any further update on phasing and exact timing? Do we have any more commitments from Waka Kotahi?

Rowan is going into the TRC hearing on Monday for the Poultry Farm so would be good to get an update.

Thanks

Juliet Johnson
Manager Planning
New Plymouth District Council | Liardet St | Private Bag 2025 | New Plymouth 4342 | | CELL 027 807 6118
www.newplymouthnz.com<<http://www.newplymouthnz.com/>> |
Facebook<<http://www.facebook.com/#!/NewPlymouthDistrictCouncil>> |
Twitter<<http://twitter.com/#!/NPDCouncil>>