Taranaki Regional Council

Submission on resource consent application

Online reference number:	CA210837509
Completed on:	19 Aug 2021

Submitter's details

Full name or company name of submitter	Karen and Rod Brown
Contact Name	Karen Brown
Email	[redacted]
Contact phone number	[redacted]
Postal Address:	[redacted]
Street address of property affected (if different to the address above)	NA

The Council will serve all formal documents electronically via the email address provided above.

Application to which submission relates

Name of applicant	Airport Farm Trust Limited
Proposal (activity type and location)	Chicken sheds located at 58 Airport Drive requesting change from broiler to free range and extension to operate beyond 2026
TRC Consent number/s	5262-3.0
I am a trade competitor for the purposes of section 308B of the Resource Management Act 1991	No

The specific parts of the application this submission relates to are:

My submission relates to the whole application	Yes

Submission details

Please provide details of your submission. If your submission is in a document, you can upload the document below.	Note: Document uploaded *We do not want the existing resource consent extended past 2026 *We do not want the chicken sheds changed from broiler to free range without more information as to air quality outcomes, but even so do not want it extended past 2026. *We do not agree this is simply a renewal of the existing resource consent, changing from broiler to free range should be a new resource consent application due to change of operation and conditions. *By not making regular complaints to TRC regarding offensive odour and dust pollution AFT have used this as an argument in their favour saying there is no air pollution, this is not true in our daily experience of living in their stink zone. *NPDC are looking at rezoning our area, we are retired and not always going to suit the lifestyle our property offers, the

continuance of the chicken sheds beyond 2026 will hinder our future and rezoning, we believe NPDC should be an involved party in this resource consent.
*We believe any property within the 400m surrounding chicken sheds should have been contacted regarding this resource consent, not just the 5 property owners advised.
*A joint submission has been compiled by the 5 notified parties under the resource consent application and has been uploaded as an attachment, some points changed to reflect our individual positions.

Karen and Rod Chicken sheds Submission to TRC.docx

Outcome sought

I seek the following decision from the Council	To refuse consent
If consent is granted, the conditions I seek are	NA
You can upload a document containing the conditions you seek here	NA

Attendance and wish to be heard at consent hearing

I/we wish to be heard in support of my/our submission	Yes

By answering yes, you will have the option to speak in support of your submission at any consent hearing.

If others make a similar submission, I/we will consider presenting a joint case with them at the hearing.	Yes

Request for independent commisioner/s

Pursuant to section 100A of the Resource Management Act 1991, I request that the Taranaki Regional Council delegates its functions, powers, and duties required to hear and decide the application to one or more hearing commissioners who are not Taranaki Regional Councilors.	NA

Note: Such a request may be made (in writing) up to 5 working days after close of submissions. If you do make a request under section 100A of the Resource Management Act 1991, you will be liable to meet or contribute to the costs of the hearings commissioner or commissioners.

Provision of submission to applicant

The Resource Management Act 1991 requires you to send a a copy of the submission to the applicant.

Would you like the Applicant to be automatically sent a copy of this submission via email?	Yes
Please enter the applicant's email address here	ed@airportfarm.co.nz

Authorisation

By selecting this checkbox, you are confirming you are the person making submission, or person authorised on behalf of person making submission.	Yes
Date	19/08/2021

RE: Submission on Resource Consent Application 20-0526-3.0

Airport Farm Trustee Limited

Submitter Details

1. We have been provided with the following documentation from the TRC that have informed us in the preparation of this submission[1]:

TRC document Identifier	Name of Document
FRODO-#2574889-v2	Application form 20-04692-3-0 20-0526-3-0 Airport Farm Trustee Limited 26 August 2020.PDF (**Application**)
FRODO-#2791520-v2	Application AEE-odour assessment 20-04692-3-0 20-0526-3-0 Airport Farm Trustee Limited 3 June 2021.PDF (**Tonkin and Taylor Report**)
FRODO-#1276405-v1	Image 4692-2 Transferred 25 Oct 2013.PDF (**Consent 4692**)
FRODO-#1314237-v2	Image-5262-2-1 Airport Change 20 Feb 2014.PDF (**Consent 5262**)
FRODO-#2831685-v1	Notification decision-Limited notification 20-05262-3-0 Airport Farm Trustees Limited.PDF (**Notification Decision)**

2. Our neighbours Kevin and Glenis McDonald had a meeting at the Taranaki Regional Council (TRC) with the personnel below, on 30 July 2021at the TRC in Stratford, to clarify details of the Application:

    a. Gary Bedford – Planning Manager

    b. Colin McLellan – Consents Manager

3. They shared with us how revealing this meeting was, in terms of how current consents are supposed to operate, what obligations are placed on parties, and the rights of affected parties. If we, and neighbours, had been aware of these much earlier, we believe that the TRC would have been presented with an entirely different perspective on the Application that would have created a different process and a better informed outcome.

Summary of our understanding of the application

4. We understand that AFT are seeking an early renewal of their two discharge consents 4692-2 and 5262-2, both of which are due to expire 1 June 2026.

5. Discharge consent 4692-2 relates to discharge of wash-down water from the cleaning of broiler chicken sheds onto and into land. We understand that the TRC is processing consent

[1] A number of these were supplied after lodging a request for further information.

4692 separately to the air discharge consent. TRC's reasons are that consent 4692 is a Controlled Activity (must be granted) and will be processed non-notified, because "*nobody is adversely affected*"[2]. We don't necessarily agree that this assumption is correct, but we are happy to capture our broader concerns under this submission for consent 5262.

6. We understand that AFT haven't specified a period for the renewed consent in the Application, but that they have indicated that they are seeking a renewal term of 10-15 years from date of granting without change to the special conditions under their current air discharge consent 5262-2[3].

7. AFT has provided an odour assessment report from Tonkin and Taylor in support of their application.

[2] Email correspondence 4 August 2021 with TRC Consents Manager Colin McLennan clarifying this point.
[3] ibid

Outcome Sought in this submission

8. **The TRC should refuse the consent**

9. **Within the current remaining period of the consent**:

    a. We oppose the Application to extend the free range to outside of the shed until an AEE is made, and control measures associated with the new risk have been identified and implemented.

    b. We seek a review by the TRC on the effectiveness of AFT's existing control measures to ensure improved compliance with current consent conditions that we now understand are being breached on a regular basis.

    c. We seek an improvement in the TRC monitoring program that can better and more regularly capture the ongoing concerns of residents of Airport Drive.

    d. We request that AFT are required to keep all written records of complaints for longer than six months and present these to the TRC at the appropriate review dates. We also request that AFT provide the complainants with a copy of a record of their complaint each time a complaint is made.

    e. We request that we are included in the information loop and kept informed on these actions and their progress.

Summary of objections to the Application

10. AFT has a poor compliance record as experienced by ourselves and other neighbours. TRC officers seem to be unaware of this persistent, ongoing, and the cumulative negative effects on loss of our living amenity value.

11. There is a strong and reasonable expectation that the consent wasn't going to be renewed beyond 2026. A number of parties, including ourselves, have relied on this in our future planning.

12. **We believe that the consent should have been publicly notified under S95 of the RMA.** Our grounds for this are detailed further in this submission, but in summary we believe that the TRC has made a number of material errors in its assumptions and reasoning that have led to their willingness to consider the early renewal of the consent and its notification decision and determination of affected persons.

Evidence in support of our objection

Consent should have been publicly notified

13. S95A of the RMA provides for public notification in special circumstances. We consider the special circumstances requiring public notification to be self-evident:

    a. The Application proposes to extend the consent past 2026, potentially by a further 15-years to 2036. This is well past the reasonably held expectation of affected

parties, including NPDC on behalf of the district, residents of Airport Drive, and parties having bought land with the expectation to subdivide.

b. The consent also proposes to change the operation where the environmental effects haven't been assessed. Residents excluded on the basis of having already provided consent in earlier applications cannot automatically be assumed to provide a blanket approval for changes of operation.

c. AFT have a poor record of environmental performance as experienced by residents that challenges the notion of whether they are fit to continue their operation.

Consent not to be renewed beyond 2026

14. A public meeting with residents and businesses in New Plymouth District Council (NPDC) was held to discuss District Plan zone changes for areas designated as Area Q and Area R in 2014. The newspaper report at the time recorded the discussion. This included an article highlighting AFT's owner, Mr Ed Whiting, distress at not having his consent renewed in 2026. He was resigned to this however and his main concern was that he should be allowed to capitalise on the new urban zoning, rather than have the area rezoned after his operation was closed[4]. I was present at this meeting.

15. Others, including ourselves, have since relied on the consent not being renewed past 2026. This also includes parties not being notified in this process (developers, and owners looking to subdivide their land once it is rezoned as residential).

16. Given the background and well signalled intentions by NPDC for the development of the area, it is concerning to us that NPDC have been ruled out of having any say in this application.

Change of Process

17. AFT clearly explain in their Application that they intend to ***convert*** *their existing operation to free range.*

> *"This will include conversion of its four existing poultry sheds from conventional (i.e. non-free range) broiler to a free-range configuration[5]"*

18. While no further explanation is provided on what this entails, other than reduced bird numbers, the Tonkin Taylor Report notes that this also encompasses[6]:
    - *"Provision of **outdoor range** areas alongside each shed corresponding to the shed area (at a minimum).*
    - *Installation of pop holes along the side of the sheds to allow birds to access the range areas in the following circumstances:*

[4] https://www.stuff.co.nz/taranaki-daily-news/news/63623010/chicken-farmer-worried-rezoning-will-leave-him--in-limbo-land
[5] Section 6.1 of the Application
[6] Tonkin Taylor Report 2.4

- Once the birds are old enough to self-regulate body temperature at 21 days; and
- During daylight hours thereafter (except during inclement weather)".

19. Surprisingly, Tonkin and Taylor do not address the significant change to include an outdoor operation that appears to increase the risk of environmental effects beyond the boundary. Instead they focus on how this affects the risks from *within the shed* operation and conclude odour effects will be *less*. They base this on argument of reduced stocking density and an assumption that chickens only excrete where they eat (indoors).

20. Tonkin and Taylor (Section 3) note that odour is odour is exacerbated by water/ moisture and also created by the birds themselves. This is a point that should have been picked up by them in terms of the outdoor operation.

21. In both minimising current emission risk and being silent on the new emission risk, the Tonkin and Taylor report has also avoided commenting on how controls should be enhanced and where existing controls might become less effective under the new operation. In terms of equipment that AFT have to mitigate effects of odour and dust, these are all based on having birds contained within a negative pressure maintained enclosed space.

22. Likewise the TRC in its assessment of the Application appears to make a similar error of omission to conclude that the consent application falls under Rule 52 of the RAQP. Rule 52 covers "*Existing poultry farming processes*" whereas AFT (and Tonkin and Taylor) clearly indicate that the Application covers a *conversion* ***of an existing operation to*** *free range (*our emphasis added). According to the RAQP this would make the Application subject to Rule 54.

23. While making this Application subject to Rule 54 (discretionary activity) seems to remove any rule based obligation to notify the consent, it should affect the consideration of affected parties and whether the effects are likely to be more than minor (S95E). When considering discretionary activities, **all** adverse effects of the activity can be considered. Activities classified as discretionary are recognised as being capable of generating a wide range of effects and therefore the assessment of effects is not narrowed or limited in any way.

24. In restricting the consent to a limited notification consent it seems to us that the TRC has unnecessarily limited its own powers to properly assess the application in the right context.

Lack of complaints

25. TRC's judgment on how to address the Application seems to have been informed by an unfounded assumption that AFT have good compliance performance with current consent conditions. In our view, the TRC's handling of the Application has relied excessively on its official complaint record to conclude that adverse impacts are no more than minor. It hasn't tested this in either its monitoring process, or tested this assumption with potentially affected parties that would have provided a different conclusion.

26. The Application, the Notification Decision, and the Tonkin and Taylor Report all rely on a mistaken representation of AFT's performance under their current consent. In particular, they all state, or assume that AFT is complying with its existing consent conditions and any effects are no more than minor:

a. AFT claims that it is meeting its existing resource consent conditions standards[7]

b. AFT claims no "record" of dust being a problem on the farm[8]

c. AFT (falsely) states that no complaints have been received in relation to offensive and objectionable odour beyond the boundary of the site[9]

d. AFT (falsely) claims that records and experience has not shown dust emissions moving beyond the site boundary[10]

e. AFT (erroneously) claim odour is a subjective matter and relies on statement that only official complaints to the TRC should matter[11].

f. Tonkin and Taylor note that their report relies solely on the complaint record, and an absence of any complaints since 2015[12].

g. Tonkin and Taylor note in relation to Odour Diaries as an assessment tool in Table 5.1 that[13]:

> *"The complaints record has not indicated that odour is prevalent on neighbouring properties and an odour diary programme was therefore not considered suitable for this assessment".*

The passive approach taken by Tonkin and Taylor in their assessment by simply relying on the word of the Applicant, undermines the relevance of their report.

h. The TRC concludes that there are no *recorded* complaints about odour in assessing any impacts as being less than minor[14].

27. Contrary to the perceptions created above, our experience, and those of our neighbours, suggests that AFT regularly breach special conditions 6 (odour) and 7 (suspended dust) of consent 5262. These breaches are having an adverse effect on our physical and mental wellbeing and our overall enjoyment of our living amenity.

28. Our personal experience is that emissions from the AFT site occur regularly, the offensive and objectionable odour and dust affect our ability to enjoy outdoor living and activities, especially in a northerly wind.

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[7] Section 6.1 of the Application
[8] Ibid 7.4
[9] Ibid 7.6 – also notes prevailing wind as from the West whereas the Tonkin and Taylor Report indicates prevailing wind is SSE (Fig 4.1 and p11)
[10] Ibid 7.7 – note that if there is a dust emission from the shed it is hard to explain where else the dust might go, if not beyond the boundary.
[11] Ibid 7.8
[12] Tonkin and Taylor Report – Table 5.1 p12 and Section 5.2 p13
[13] ibid
[14] Notification Decision – p6

29. During such episodes of odour, we cannot hang out our washing, if it's already out we need to get it in. The fowl odour clings to our clothing and needs rewashing.

30. During a northerly wind when the stench is at it worst, we have to turn off our HRV and shut the windows to isolate ourselves from the offensive and objectionable environment. Even then it takes a while to dissipate.

31. The evening shed clean outs are particularly objectional, we do a lot of work/hobbies in my shed in the evenings but it is unbearable on these extremely offensive days. The odour lingers inside if the door is open and is annoying, we have to shut the door even when its warm and we want fresh air.

32. There is regular offensive and objectionable odour and dust released by AFT, we have made a complaint to TRC in the past in regards to the previous owner of AFT, where they turned up 2 days later and the smell was already gone. This has discouraged me from bothering with any further complaint.

33. Ourselves and other neighbours have not bothered to complain as we are all considerate neighbours with the belief AFT would be finished in 2026. We have put up with it knowing it's not forever.

34. In addition, AFT also are a significant source of complaint for noise performance. This is particularly during the night with shed cleaning, feed deliveries, and other truck movements occurring at all hours of the night and very early morning. We appreciate that the TRC does not concern itself with noise other than providing more general advice on avoiding noise complaints under Appendix V of the RAQP[15], but it helps to paint the picture of cumulative negative effects of AFT's operation to its neighbours.

35. We have, through this process, discovered that is recommended good practice (but not a requirement) under RAQP Appendix 5 section t (complaints), that the farm operator is required to keep a written record of complaints noting all of the relevant details of the complaint. These written records need only be retained for *at least* six months.

36. The TRC, Tonkin and Taylor, and AFT claim no records of non-compliance exists. While this may be the case because complaints haven't been officially notified to the TRC, and they haven't been recorded by AFT either, this does not mean that complaints don't exist. In the context of an Application that seeks to present itself as "no adverse impact" it strikes us that AFT in being less than transparent, have misled the TRC. This lack of transparency leads to a false perception that AFT are a model compliant neighbour, which is not how we would characterise their behaviour or their fitness to continue to operate this way.

37. It is noteworthy that AFT has chosen not engage with its neighbours on this consent. This is evidenced by this section being left blank in the Application and also noted by Tonkin and Taylor in Table 5.1 under Community Consultation

[15] RAQP- Appendix 5, section S (Noise)

"AFTL has not consulted with neighbours in relation to this application and the complaint record has been relied upon for community feedback in relation to odour."

Effectiveness of Current Controls

38. The examples of breaches that we have noted above seem to point to the lack of the effectiveness of engineering controls in the operation.

39. On reflecting on this, our personal thoughts and observations on this are:

    a. The shed side vent discharges **point to the ground**. The original shed configuration had these in the roof. I believe that they were changed because emissions at the roof were causing the roof to corrode[16].

    b. We assume that the original AEE would have included a description of the engineering controls supported by air discharge dispersion modelling to show sufficient dispersion to meet the consent conditions at the boundary. If the original controls have changed, then presumably the original AEE that the TRC relied on to issue the consent is no longer valid.

    c. Special consent condition 4 of the Consent requires the TRC to have reviewed these types of changes.

    d. We would submit that having shed air discharged at ground level and pointing towards our boundary may offer one explanation for the air discharge problems we, and our neighbours are experiencing.

    e. The fact that this engineering change may have bypassed TRC scrutiny also points to a lack of effective auditing and monitoring by the TRC.

40. Based on this, we would request that; the TRC reviews the effectiveness of AFT's existing control measures; how these may have changed from the original consent; and whether these changes were properly notified and dealt with as per special condition 4. Depending on this investigation we assume that the outcome might need further investment in the shed operation as a remedy.

41. We also ask that the TRC reassesses the effectiveness of its current monitoring program. In our view these seem largely passive and reactive, if it simply relies on official complaints being received, or rely solely on the representations of AFT during any review periods.

42. We ask that the TRC reports back to us in terms of these recommended actions.

In conclusion we are opposed to the application and seek that the consent renewal application is declined/refused entirely.

[16] Note that it is our recollection that this change may have occurred before Mr Whiting assumed ownership of the operation

In our view TRC should not be assessing/treating the application as a renewal in any event – as the proposed activity to move to free range farming is a different activity than that originally consented – with a different nature, scale and intensity of effects such that it should be processed as a new application for a new activity (not a renewal); and in the context of that new activity (to move to free range farming) we are of the view that there is insufficient information for us to properly ascertain and consider the actual and potential adverse effects on us and the environment generally (for reasons noted earlier in our submission).

Odour and dust (and noise) effects from the existing and proposed activity are having, and will continue to have, significant adverse effects on us and our amenity values and the quality of the environment in which we live. The odour effects are causing loss of amenity value of air in the surrounding environment in which we live; the odour/dust effects and emissions are offensive and objectionable beyond the applicant's site boundary and are having (and will continue to have) more than minor adverse effects on us and in the receiving environment in which we live.

The odour/dust (and noise) is very noticeable and offensive and objectionable (as already discussed in our submission) and the adverse effects are far more than minor in our experience; the activities are incompatible with the receiving environment in which we live and cause (and will continue to cause) unacceptable adverse, cumulative and nuisance effects.

The proposed activities are inconsistent with, and contrary to, the relevant provisions of the Taranaki Regional Policy Statement (RPS), Regional Freshwater Plan for Taranaki, Regional Air Quality Plan for Taranaki (RAQPT) and the purpose and principles of the Resource Management Act 1991 (RMA) under Part 2 RMA - and will not achieve or promote sustainable management under the RMA.

We wish to be heard in support of our submission and if others make a similar submission will consider joining the hearing with them.