

Consents

**BEFORE AN INDEPENDENT HEARING PANEL
FOR THE TARANAKI REGIONAL COUNCIL**

IN THE MATTER of the Resource Management Act 1991 (**RMA**)

AND

IN THE MATTER of a resource consent application by Airport Farm Trustee Limited

LEGAL SUBMISSIONS FOR TARANAKI REGIONAL COUNCIL

16 February 2022

 **Simpson Grierson**
Barristers & Solicitors

M G Conway
Telephone: +64-4-499 4599
Email: matt.conway@simpsongrierson.com
PO Box 2402
Wellington

1. INTRODUCTION

1.1 These legal submissions are made on behalf of Taranaki Regional Council (**TRC**) and address the following questions that have arisen during the hearing:

- (a) Does the existing environment include the effects of the existing consent?
- (b) Is it open to the hearing panel to apply a permitted baseline?
- (c) Does the proposed activity fall within Rule 52 of the Regional Air Quality Plan for Taranaki (**RAQP**)?
- (d) Is possible future residential zoning of the surrounding area part of the reasonably foreseeable future environment?
- (e) What role (if any) should the National Policy Statement on Urban Development 2020 (**NPS-UD**) have in the consideration of the application?
- (f) What legal principles apply to the setting of a consent duration if the consent is granted?

2. Does the existing environment include the effects of the existing consent?

2.1 All counsel appear to agree with the proposition put by the Chair of the hearing panel that, when considering an application for a replacement consent, the existing environment only includes the effects of the existing consented activity until the point of its expiry.¹

2.2 Ms Booker for the applicant further confirmed that the existing consent would be surrendered if this consent application is granted.²

3. Is it open to the hearing panel to apply a permitted baseline?

3.1 Ms Booker's legal submissions note that up to 30,000 birds can be farmed on the site as a permitted activity provided there is no offensive or objectionable odour or dust at or beyond the boundary (Rule 51 of the RAQP). She further notes that the

1 Ms Booker oral response to question put by Chair; Mr Grieve's written submissions at paragraph 29.
2 Written submissions at paragraph 25.

presence of a poultry farm on the site confirms that this is not a fanciful activity, and that the applicant has expressed an intention to operate under Rule 51 beyond 2026 if the consent now sought is not obtained.

3.2 In my submission, that represents the correct approach and it is open to the hearing panel to apply a permitted baseline under section 104(2) of the RMA.

3.3 In the interests of clarity, the TRC officers' assessment has taken a conservative approach by considering the effects of the proposal as a whole *without applying a permitted baseline*. Further, based on actual observations of odour from the site, the officers have provided evidence about the effects of the activity as it currently operates.

3.4 There was some discussion in the hearing yesterday about the relevant comparison being the effects of 30,000 birds with horizontal ventilation as against 60,000 birds with vertical ventilation. That will be an important comparison if the hearing panel decides to apply the permitted baseline.

3.5 However, that does not make the current and historical effects of the operation irrelevant. In part this is because the hearing panel may find it instructive to know the overall level of predicted effects that will occur from the proposal, in case the panel wishes to take a conservative approach and not apply a permitted baseline. In addition, the effects of the current operation are a marker point against which the predicted reduction in effects can be viewed.

4. Does the proposed activity fall within Rule 52 of the RAQP?

4.1 I agree with the analysis of this question in paragraphs 11-17 of Ms Booker's written legal submissions. Interpreting the rule as excluding a replacement consent application that seeks to reduce the scale of effects would undermine the clear intent of the rule and disincentivise consent holders from taking actions to reduce the effects of their activities.

4.2 In addition, I note that the definition of intensive poultry farming in the RAQP expressly includes free-range poultry farming, so the intended inclusion of a

free-range component does not take the proposal outside the activity that is referred to in the existing consent:

Intensive poultry farming means the keeping, rearing or breeding of 12 or more poultry, whether in relation to the production of poultry for human consumption or in relation to egg production, where the predominant productive processes are carried out primarily within buildings and includes free-range poultry farming activities, but excludes low density free-range poultry.

5. Is possible future residential zoning of the surrounding area part of the reasonably foreseeable future environment?

Case law

5.1 Based on an orthodox application of the law as expressed in *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZRMA 424 (CA), activities that might be enabled by a future resource consent application are not part of the reasonably foreseeable future environment against which the effects of this proposed activity are to be assessed. By extension of the same reasoning, it is difficult to see how activities that might be enabled by a future plan change that has not yet been drafted or notified could be part of the reasonably foreseeable future environment.

5.2 However, some care needs to be taken in applying that approach too strictly in circumstances where intensification is clearly signalled in a district plan. In *Queenstown Central Limited v Queenstown Lakes District Council* [2013] NZHC 815 (HC), the High Court observed:³

that the cornerstone material fact in the application of the first gateway test is that there is an operative district plan which contains objective 6, which provides for the urbanisation of this area to accommodate residential, commercial and industrial activity.

5.3 The Court went on to find that:⁴

Section 104D, and indeed the RMA as a whole, calls for a "real world" approach to analysis, without artificial assumptions, creating an artificial future environment. Read as a whole, *Hawthorn* endorses having regard to objective 6 and its policies. The

3 At [36].
4 At [85].

current development of the Frankton Flats, of which these applications are only part, was inconsistent with the plain statutory injunction imposed on the consent authority to consider the adverse effects on the future environment, contained in the phrase "will be". To read down s 104D(1)(a) so that the judgment is will be "minor" if established in an undeveloped environment, was contrary to the operative plan and the facts, and so thwarted the intention of Parliament.

- 5.4** In *Queenstown Central*, the council had made its decisions on plan change submissions, and the plan change was subject to appeals. The High Court said that the Environment Court was right not to focus on the specifics of the proposed plan change, because the details might change through appeals, but that it should have recognised that the future environment of the relevant area was urban, consistent with operative plan objectives and policies, as well as the practical reality that the area in question represented the only remaining undeveloped flat land in Queenstown, and there was high demand for this land to be urbanised.⁵

New Plymouth District Plan

- 5.5** In the present circumstances, the site falls within the Future Urban Development Overlay under the Operative District Plan (see Planning Map A 31, attached as **Appendix A**). The Operative District Plan provides as follows:

Objective 1A

To ensure that activities within and adjacent to the Future Urban Development OVERLAY do not adversely affect the ability to rezone and subsequently develop areas identified as FUTURE URBAN GROWTH AREAS.

Policy 1A.1

Activities within the Future Urban Development OVERLAY should be located and undertaken in a manner that does not have any actual or potential adverse effects on the future rezoning and subsequent development of land identified as a FUTURE URBAN GROWTH AREA.

- 5.6** Opposite the site is Bell Block Area Q, an area planned for in accordance with Objective 23 of the Operative District Plan, which states:

That land identified for future urban use is comprehensively planned to facilitate an integrated approach to land development while addressing site specific issues to

5 At [13], [38], [63], [123] and [160].

provide for accessible, connected, efficient, liveable communities and coherent urban spaces.

- 5.7** An extract from the Operative District Plan, showing Issues 1, 1A and 23, and associated objectives, policies, and methods, is provided at **Appendix B**.
- 5.8** In the Proposed District Plan, the site falls within the Future Urban Zone. The objectives for this zone are as follows:⁶

FUZ-01 The Future Urban Zone is the preferred location for urban growth and is managed to ensure the District's medium and long term housing and industrial needs are provided for.

FUZ-02 Until rezoning for urban growth purposes occurs and the area to be rezoned is comprehensively planned by a structure plan:

1. urban growth is avoided within the Future Urban Zone areas; and
2. the Zone is predominantly used for agricultural, pastoral and horticultural activities and low density rural living activities.

FUZ-03 The predominant rural character of the Future Urban Growth zone is retained, which includes:

1. low density built form with open space between buildings;
2. a diversity of topography and land quality, including land without significant rural production values and/or versatility;
3. a general absence of urban infrastructure;
4. rural roads with low traffic volumes;
5. areas of vegetation, natural features and open space.

FUZ-04 Activities within and adjacent to the identified Future Urban Zones do not compromise the ability to develop the area for urban growth purposes.

- 5.9** Opposite the site is the Bell Block Area Q Structure Plan Development Area, which has the following objectives:⁷

DEV1-01 Urban development is enabled within the Bell Block Area Q Structure Plan Development Area, provided it occurs in accordance with the Structure Plan for the area.

6 <https://districtplan.npdc.govt.nz/eplan/#Rules/0/138/1/0/0>.
7 <https://districtplan.npdc.govt.nz/eplan/#Rules/0/184/1/0/0>.

DEV1-O2 Infrastructure is provided in an integrated, efficient and comprehensive manner to meet the planned needs of the Development Area.

DEV1-O3 Activities within and adjacent to the Development Area do not compromise the ability to develop the area in accordance with the Bell Block Area Q Structure Plan Development Area.

Discussion

5.10 The current situation is distinguishable from the situation in *Queenstown Central* because here there is no proposed plan change to change the future urban zone to residential. The proposed plan that is currently going through the hearing process maintains the future urban zoning of this land. A further plan change at some point in the future would be needed in order to enable substantially increased residential development as a permitted activity. I have not located any cases that expressly deal with the weight that can be placed on future urban zones in an operative or proposed plan.

5.11 However, it was a "*cornerstone material fact*" in *Queenstown Central* that objectives and policies applying to the area in question made it clear that the area was to be urbanised. That is also the case here. Existing planning provisions, and the reality that Bell Block is being relied on to meet New Plymouth's forecasted housing needs,⁸ make clear that residential activity does form part of the future environment.

5.12 Both of the above cases support taking a real world approach, without artificial assumptions, when considering the future environment. As a result, in addition to considering the effects on the environment as it is envisaged to be before urban intensification occurs, it would appear to be reasonably open to the hearing panel to consider what the effects of the activity might be on an urbanised environment with residential development. However, care would need to be taken in how much weight is placed on that future environment, given that the timing of when that environment might arise, and the details of that environment (housing density, for example), are not yet known or planned.

⁸ Statement of Evidence of Rowan Williams on Behalf of New Plymouth District Council, at paragraphs 2.4, 3.3, 4.1 and 6.2.

6. What role (if any) should the NPS-UD have in the consideration of the application?

6.1 The NPS-UD came into force on 20 August 2020. It directs local authorities to enable greater supply of housing, and ensure that planning is responsive to changes in demand, while seeking to ensure that new development capacity enabled by councils is of a form and in locations that meet the diverse needs of communities and encourages well-functioning, liveable urban environments.

6.2 The majority of the NPS-UD's provisions are to be given effect primarily through RPSs and district plans rather than resource consent decisions, but they remain relevant to the latter if the resource consent application relates to urban environments.

6.3 For example, Policy 6 sets out matters that decision-makers must have particular regard to when making planning decisions (including resource consent decisions) that affect urban environments. These include "the planned urban built form anticipated by those RMA planning documents that have given effect to this National Policy Statement". That does not include the NPDC district plan (operative or proposed) at this stage.

6.4 In summary, while the NPS-UD can theoretically have relevance, in practice its actual relevance to this consent application is very limited because:

(a) The NPS-UD has not yet been given effect to in the New Plymouth District Plan. The PDP was notified in September 2019, so it predates the NPS-UD, and decisions on submissions have not yet been made.

(b) To my knowledge no evidence establishes that the application site is within an urban environment. For completeness, the NPS-UD definition of urban environment includes reference to any area of land that "is, or is intended to be, predominantly urban in character". Current district plan zoning is probably the strongest signal of intention. Urban intensification in this area is not currently encouraged but the FUZ zoning signals that urbanisation is likely to be enabled at some point in the future by a further plan change, and Ms Williams has confirmed that this is the intention.

- (c) This consent application is for the continuation (albeit at a reduced scale) of an existing intensive farming activity rather than an activity that is expressly dealt with by the NPS-UD.
- (d) The decision on this consent application cannot in itself achieve (or prevent the achievement of) the objectives of the NPS-UD.
- (e) Most of the policies of the NPS-UD are not relevant to this application, as the policies are directed at decisions made about RPSs and district plans. The policies that are of more general application (policies 1, 6 and 8) are at best of oblique relevance rather than containing any particular directions about substantive outcomes for an application such as the present one.
- (f) The application of any relevant provisions in the NPS-UD to this consent application needs to be considered in the context of the evidence about the effects of the proposed poultry farm. If the hearing panel accepts the TRC officers' conclusions about effects, the proposed activity's ability to hinder the implementation of the goals of the NPS-UD appears limited.

7. What legal principles apply to the setting of a consent duration if the consent is granted?

7.1 Discharge permits have a maximum duration of 35 years under section 123(d) of the RMA.

7.2 Based on the case law that will be discussed below:

- (a) Factors that may point towards a longer duration include the conditions that are to be imposed, certainty for the applicant, and the regional necessity of an activity.
- (b) Factors that may indicate the need for a shorter duration or the imposition of conditions include future changes in the vicinity of the activity, and public disquiet.
- (c) Factors that may indicate a longer or shorter duration include the applicant's investment or lack of investment, the certainty or uncertainty

about the effectiveness of conditions, the applicant's compliance history, and the certainty around performance of any upgrades.

7.3 In *PVL Proteins Ltd v Auckland Regional Council A61/2001*, in relation to a discharge to air consent for a slaughterhouse and rendering plant, the Court considered that the first relevant consideration is the RMA's sustainable management purpose, in section 5.⁹

7.4 The Court went on to state that the relevant factors for determining duration include:¹⁰

... that conditions may be imposed requiring adoption of the best practicable option, requiring supply of information relating to the exercise of the consent, requiring observance of minimum standards of quality in the receiving environment, and reserving power to review the conditions.

7.5 Further, the Court also indicated that uncertainty, and the applicant's need to protect their investment, were relevant factors for duration:¹¹

Uncertainty for an applicant of a short term, and an applicant's need (to protect investment) for as much security as is consistent with sustainable management, indicate a longer term.

7.6 However, the Court stated that these factors must be weighed against:¹²

... expected future change in the vicinity has been regarded as indicating a shorter term. Another indication of a shorter term is uncertainty about the effectiveness of conditions to protect the environment (including where the applicant's past record of being unresponsive to effects on the environment and making relatively low capital expenditure on alleviation of environmental effects compared with expenditure on repairs and maintenance or for profit). In addition, where the operation has given rise to considerable public disquiet, review of conditions may not be adequate, as it cannot be initiated by affected residents.

7.7 The *PVL Protein* factors were considered in *Waste Management NZ Ltd v Auckland Council* in relation to the duration for a land use consent for a landfill.¹³ The Environment Court acknowledged that the *PVL Protein* factors were useful but not

9 *PVL Proteins Ltd v Auckland Regional Council A61/2001* at [5] and [90].

10 *PVL Proteins Ltd v Auckland Regional Council A61/2001* at [28].

11 At [30].

12 At [31].

13 [2015] NZEnvC 178 at [1].

exhaustive and that "... there may well be other factors which are relevant in any given case".¹⁴ The Environment Court held that the "future vicinity" factor from *PVL Proteins* was relevant, due to the activity advancing towards the site boundaries as it progressed.¹⁵ It also considered uncertainty about the effectiveness of the consent conditions was relevant, but weighed this against the regional necessity of the landfill.¹⁶

M G Conway

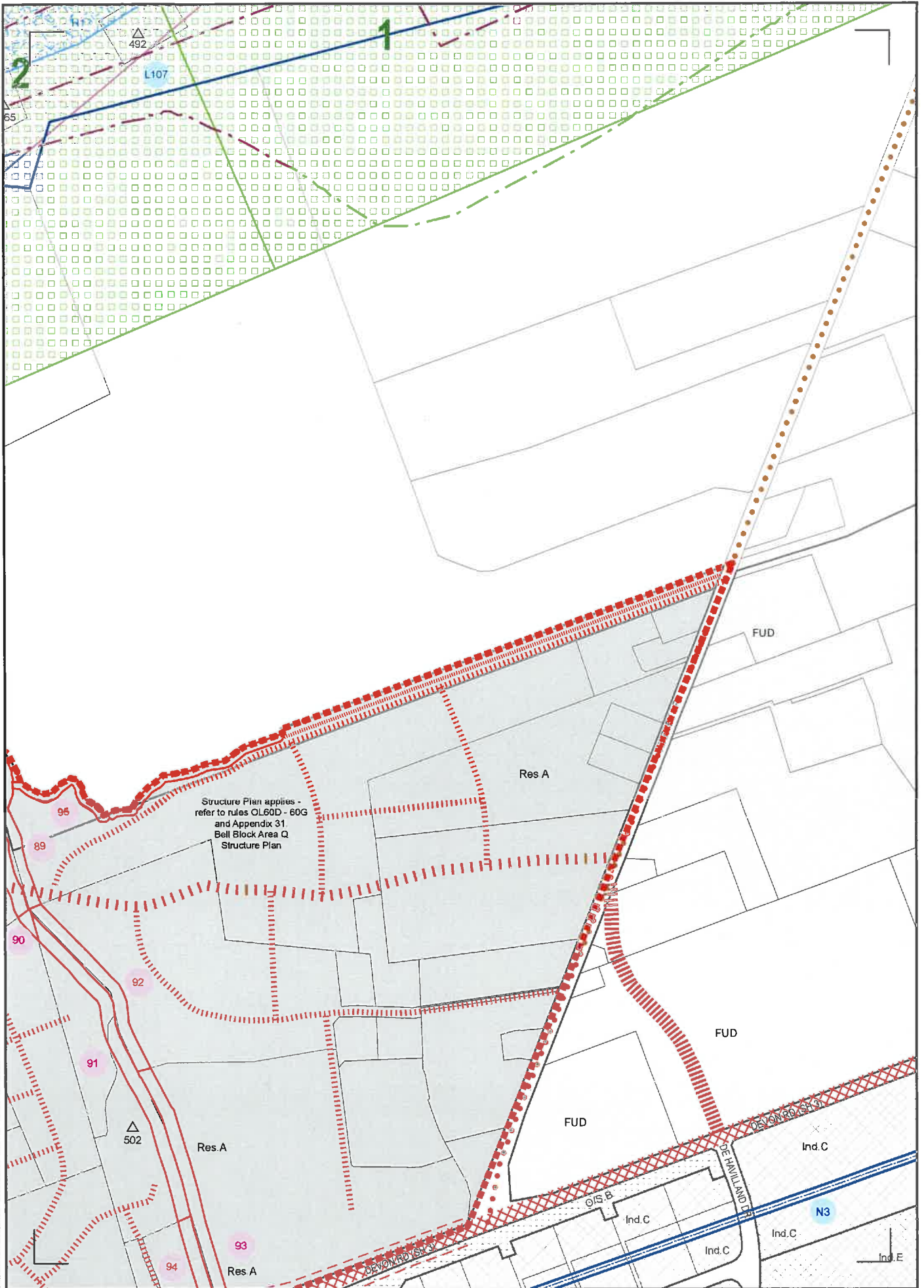
Counsel for Taranaki Regional Council

14 At [123].

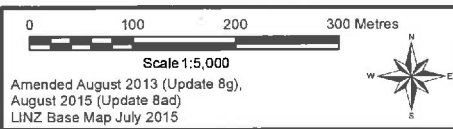
15 At [137].

16 At [127] and [134].

Appendix A: Operative District Planning Map A 31



On any State Highway the Designation is to provide for the control of access to State Highways and all functions, powers and operations of Transit New Zealand in accordance with the Transit New Zealand Act 1989



 **NEW PLYMOUTH DISTRICT COUNCIL**
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NEW PLYMOUTH DISTRICT PLAN

C5		
A30	A31	A32
B30	B31	B32

PLANNING MAP
A 31
NEW PLYMOUTH

Appendix B: Operative District Plan Extract – Issues 1, 1A and 23

AMENITY, HEALTH AND SAFETY



Issue 1: The adverse effects of activities on the character of areas and on other activities

The New Plymouth District is an area comprised of many different types of land uses. Through natural aggregation and past planning practices similar types of activities have tended to group together, creating areas with distinct environmental characters.

The character of each area has been determined, to a large extent, by the nature of the activities taking place within it, their operational requirements, and the community's perception of an appropriate level of amenity. For example, traditionally, industrial areas generally have had higher noise levels, higher levels of traffic and lower levels of visual amenity than would be expected within a residential area. This is a result of the essentially production orientated nature of industrial areas compared with the social and family orientated nature of residential areas.

The character of an area can be adversely affected by activities that generate effects that are incompatible with that character (for example, a noisy activity within a quiet area). Such effects can be from an activity located within that area, or from activities in a neighbouring area – where there is an interface between areas of different character (such as an industrial area located next to a residential area).

It is important to ensure that the amenity values that determine the character of an area are protected from activities that create effects that may degrade or detract from them. It is also important to acknowledge that there can be potential conflict where an activity wishes to locate in an area where it may be sensitive to the character of that area, or the activities within it. Such circumstances are often referred to as 'reverse sensitivity'.

Urban examples of reverse sensitivity in the district include BUILDINGS used for accommodation within the New Plymouth central business area, and in proximity to Port Taranaki, where noise levels may exceed those usually experienced in

residential areas remote from such non-residential activities. Examples in the rural environment include new dwellings in proximity to New Plymouth airport, and established intensive poultry and piggery operations where rural noise and smells may be incompatible with rural-residential living.

Proposed activities that may be sensitive to activities already existing will need to recognise the nature of the area in which they intend to locate and make provision accordingly. In some cases it will be necessary for the new sensitive activity to mitigate the effects of the existing neighbouring activity. For example, sound proofing of living space may be appropriate in environments with elevated noise levels, such as the central business district or in proximity to Port Taranaki or New Plymouth airport.

As an alternative, new sensitive activities may choose to locate in areas where environmental incompatibility with established uses is less likely.

Objective 1

To ensure activities do not adversely affect the environmental and amenity values of areas within the district or adversely affect existing activities.

Policy 1.1

Activities should be located in areas where their effects are compatible with the character of the area.

Methods of Implementation 1.1

- (a) Develop RESIDENTIAL, RURAL, BUSINESS, INDUSTRIAL, and OPEN SPACE ENVIRONMENT AREAS and identify them on the planning maps.
- (b) Rules specifying standards relating to:
 - (i) daylighting;
 - (ii) maximum HEIGHT of BUILDINGS and STRUCTURES;
 - (iii) length of BUILDINGS;

- (iv) number of HABITABLE BUILDINGS on a RIGHT OF WAY;
 - (v) number of HABITABLE BUILDINGS per ALLOTMENT;
 - (vi) maximum COVERAGE of SITES and FRONT YARDS;
 - (vii) setbacks from ROAD and SIDE BOUNDARIES;
 - (viii) RELOCATION of BUILDINGS;
 - (ix) duration of TEMPORARY SIGNS;
 - (x) location, content, number and dimensions of ADVERTISING SIGNS;
 - (xi) quantity, composition and reinstatement of EXCAVATION and FILLING;
 - (xii) establishment of HAZARDOUS FACILITIES;
 - (xiii) hours of operation for the consumption of liquor;
 - (xiv) location and HEIGHT of SHELTER BELTS and vegetation;
 - (xv) minimum ALLOTMENT size for subdivision;
 - (xvi) emission of light and noise;
 - (xvii) traffic generation;
 - (xviii) number of parking, LOADING and STANDING SPACES required;
 - (xix) location and design of on-SITE manoeuvring and QUEUING SPACE; and
 - (xx) landscaping of:
 - large SUBSTATIONS and SWITCHING STATIONS;
 - parking areas;
 - OUTDOOR STORAGE areas; and
 - ROAD BOUNDARIES;
 to ensure adverse effects on the character within an ENVIRONMENT AREA are avoided.
- (c) Develop a Future Urban Development OVERLAY relating to the FUTURE URBAN GROWTH AREAS identified within the Framework for Growth (March 2008), the Oakura Structure Plan, and the Urenui Structure Plan, and identify them on the planning maps.

- (d) Rules specifying that the future rezoning and the subsequent development of the FUTURE URBAN GROWTH AREAS is not compromised by inappropriate subdivision and/or development within the Future Urban Development OVERLAY.

Reasons 1.1

As communities we ascribe different values to resources in different areas, reflecting our perceptions about amenity, health and safety. Because the range of land use activities carried out in the district is extremely diverse, there is the potential for adverse effects to occur between activities that have different amenity requirements and expectations. The aggregation of activities with like effects can minimise and avoid conflict. The use of ENVIRONMENT AREAS (formerly called zones) recognises the differing character of areas and aggregates activities of like effect. ENVIRONMENT AREAS enable the development of controls to ensure the amenity and environmental values the community place on these areas are protected.

The character of any given area is determined by a perceived set of values; these values form the basis for the formation of ENVIRONMENT AREAS. Based on aggregation of land with similar environmental characteristics, five zones have been developed using boundaries of existing zones, and SITE inspections to determine the existing characters. They are the RESIDENTIAL, RURAL, OPEN SPACE, BUSINESS, and INDUSTRIAL ENVIRONMENT AREAS. A more detailed description of each ENVIRONMENT AREA is given at the beginning of the respective rules sections.

The RESIDENTIAL ENVIRONMENT AREAS are located in urban areas and represent those areas where the majority of people choose to reside. They are characterised by a medium to high density built form, low to medium traffic movements, low levels of environmental nuisance (such as noise) and high levels of visual and aesthetic amenity. Small-scale business operations are often part of and contribute to the RESIDENTIAL ENVIRONMENTAL AREA fabric. Within the district there are three distinct RESIDENTIAL ENVIRONMENT AREAS - RESIDENTIAL A, B and C.

The RURAL ENVIRONMENT AREA within the New Plymouth District includes all the land outside of the 'urban ENVIRONMENT AREAS'. It incorporates parts of the Taranaki Ring Plain, eastern hill country, and coastal terraces near the northern entrance to the district. The elements associated with the rural environment include spaciousness, low density built form, vegetation (such as pasture, crops and forest), and distinctly 'rural' noises and smells. These elements are largely developed as a result of traditional 'rural' practices such as pastoral farming, horticulture, intensive farming activities and other rural industries, including the established activities of the PETROLEUM EXPLORATION and production industry.

BUSINESS ENVIRONMENT AREAS recognise the differing characters that have evolved within the New Plymouth District in response to local market forces. The BUSINESS A, B, C and D ENVIRONMENT AREAS have different characteristics in terms of bulk and location of BUILDINGS, pedestrian or VEHICLE oriented emphasis, parking requirements, landscaping and general amenity. They recognise the evolution of central business areas, larger scale businesses, local shopping centres, and the 'fringe' areas in transition from residential to business character.

INDUSTRIAL ENVIRONMENT AREAS recognise the differing characters of industrial areas that have evolved within the New Plymouth District in response to the levels of acceptable risk associated with the location, use and storage of HAZARDOUS SUBSTANCES. The identification of INDUSTRIAL A, B, C, D, E and F ENVIRONMENT AREAS recognise areas of differing character and their proximity to other types of uses and consequently the level of amenity expected.

Open space is a resource that has value to the community and requires recognition and protection. The formulation of OPEN SPACE ENVIRONMENT AREAS places an emphasis on the main element the community values and provides a mechanism for protecting that value. These areas include not only public land, but also those areas of land in private ownership that provide a similar function to the community. In recognition of the 'open' nature of the rural area, only land within the urban centres has been zoned as OPEN SPACE ENVIRONMENT AREAS. Within the district there are four OPEN SPACE ENVIRONMENT AREAS - Open Space A, B, C and Port Taranaki. The OPEN SPACE PORT TARANAKI ENVIRONMENT AREA identifies those areas within the port with high recreational values and usage while recognising that they are part of the port-related commercial undertaking.

Within each ENVIRONMENT AREA, it is the effects of the activity on the character of the area that is important rather than the activity itself. Standards are used to determine what is appropriate, based on the character and amenity values that the community seeks to protect; these standards are a baseline. Provided an activity can meet the required standards, there is no reason to preclude it from a particular ENVIRONMENT AREA even though that particular activity is not generally associated with it (for example, a business use in a residential area). Where an activity does not meet these baseline standards, developers will be required to apply for a resource consent to demonstrate that any adverse effects of their activity can be avoided, remedied, or mitigated.

The use of standards will ensure the subdivision, use or development of land in each of these ENVIRONMENT AREAS will not adversely affect the character of the area. For example, rules requiring activities to provide parking, loading and standing areas, on-SITE manoeuvring and QUEUING SPACES will ensure that ROADS within ENVIRONMENT AREAS are safer as they will not be congested with parked VEHICLES or reduce existing levels of amenity. These standards are discussed in more detail in Issues 4 to 9.

The Framework for Growth (March 2008), the Oakura Structure Plan and the Urenui Structure Plan all identify FUTURE URBAN GROWTH AREAS. It is considered important to ensure that any new activities do not adversely affect the environmental and amenity values, or reduce the ability to develop land in a comprehensive and integrated manner, prior to confirmation of the rezoning through a plan change process. Therefore, new activities should only be located within the FUTURE URBAN GROWTH AREAS where their effects are compatible with the proposed future character of the FUTURE URBAN GROWTH AREA. It is therefore considered pertinent to identify the FUTURE URBAN GROWTH AREAS on the planning maps through the development of a Future Urban Development OVERLAY.

Recognising that there is a risk that interim subdivision and/or development could jeopardise the ability to rezone and subsequently develop the FUTURE URBAN GROWTH AREAS it is also considered pertinent that OVERLAY rules are specified for activities within the Future Urban Development OVERLAY. The rules provide the COUNCIL with the ability to ensure that the FUTURE URBAN GROWTH AREAS are not compromised by inappropriate subdivision and/or development within the Future Urban Development OVERLAY prior to confirmation of rezoning through a plan change process. This is discussed in more detail in Issue 1A.

Policy 1.2

Activities within an area should not have adverse effects that diminish the amenity of neighbouring areas, having regard to the character of the receiving environment and cumulative effects.

Methods of Implementation 1.2

(a) Rules specifying standards relating to:

- (i) daylighting standards in the BUSINESS B and OPEN SPACE ENVIRONMENT AREAS;
- (ii) HEIGHT of BUILDINGS and STRUCTURES in INDUSTRIAL A and B ENVIRONMENT AREAS and BUSINESS C and D ENVIRONMENT AREAS;
- (iii) setbacks from the ROAD BOUNDARY and SIDE BOUNDARY in INDUSTRIAL ENVIRONMENT AREAS;
- (iv) establishment of HAZARDOUS FACILITIES;
- (v) hours of operation and location for the consumption of liquor;
- (vi) emission of noise, and LIGHT OVERSPILL; and
- (vii) landscaping of:
 - large SUBSTATIONS AND SWITCHING STATIONS;
 - OUTDOOR STORAGE areas and VEHICLE parking areas in the INDUSTRIAL, BUSINESS, RURAL and OPEN SPACE ENVIRONMENT AREAS; and
 - SIDE BOUNDARIES in the INDUSTRIAL AND BUSINESS ENVIRONMENT AREAS.

to ensure adverse affects between ENVIRONMENT AREAS are avoided, remedied or mitigated.

(b) Structure plans for the following areas:

- (i) Egmont Road Industrial C Environment Area
Additional rules specifying standards relating to:
 - scale and bulk of buildings and structures in the Egmont Road Industrial C Environment Area;
 - setbacks from boundaries in the Egmont Road Industrial C Environment Area;

- signage along the boundaries of the Environment Area;
- effects on the roading network, including the ability to take a financial contribution;
- management of stormwater; and
- landscaping.

(c) Rules specifying that the future rezoning and subsequent development of the FUTURE URBAN GROWTH AREAS is not compromised by inappropriate development adjacent to the Future Urban Development OVERLAY.

Reasons 1.2

Although it is possible to distinguish areas of different character, there will be areas of interface – where two areas with different character are located next to each other. Effects that may be acceptable in one area will not necessarily be acceptable in the other. Therefore it is important to ensure that where there is such an interface, the amenity of an area is not affected by ‘overspill’ from another.

The residential area is recognised as being the most sensitive. For this reason, the rules relating to effects between ENVIRONMENT AREAS apply where there is an interface with, or the activity is in close proximity to, a RESIDENTIAL ENVIRONMENT AREA. The residential requirements of rural areas have also been recognised.

Differing operational requirements mean that visually, the RESIDENTIAL, RURAL, BUSINESS, OPEN SPACE and INDUSTRIAL ENVIRONMENT AREAS are very different. Scale, HEIGHT, bulk or appearance of BUILDINGS and STRUCTURES, large areas used for parking of VEHICLES or outdoor storage, and the lack of amenity planting create marked differences between areas. HEIGHT and setback controls, daylighting requirements and the use of landscaping (including TREES), fences and walls to screen or soften are all mechanisms that will be used to ensure the amenity of RESIDENTIAL ENVIRONMENT AREAS is protected where such an interface occurs.

HAZARDOUS FACILITIES that may wish to locate in or near areas where the level of acceptable risk is lower (such as residential areas) will be subject to a higher level of scrutiny through the resource consent process.

Permitted hours of operation for the consumption of liquor are dependent on proximity to RESIDENTIAL and RURAL ENVIRONMENT AREAS. This is intended to reduce the potential for nuisance effects (such as noise, traffic generation and anti-social behaviour) sometimes associated with the consumption of liquor.

The noise standards are designed to reflect the desired amenity of each ENVIRONMENT AREA and are measured as the noise received. This means that an activity within (for example) an INDUSTRIAL ENVIRONMENT AREA can generate higher levels of noise (up to the standards set to protect amenity within industrial areas) provided that by the time the noise reaches the boundary of a RESIDENTIAL ENVIRONMENT AREA, it has reduced to the standard required to protect residential amenity. This also applies to the standards for LIGHT OVERSPILL (refer to Issue 2).

Policy 1.2 addresses issues relating to interfaces between ENVIRONMENT AREAS. The issue of reverse sensitivity, that is the location of activities within or in proximity to ENVIRONMENT AREAS where they may be sensitive to the character of that area or the activities within it, is discussed within Policy 1.3 and the associated Methods of Implementation and Reasons.

In some circumstances the complexity of the issues or the interface between character areas merits the use of Structure Plans. These Structure Plans allow the development of specific implementation methods to ensure a coordinated approach for future development.

The interface between industrial areas with residential and rural areas can be sensitive. For this reason, the rules relating to effects between ENVIRONMENT AREAS apply where there is an interface with, or the activity is in close proximity to, these environment areas. Scale and bulk of buildings and structures as well as landscaping as a mitigation measure all need to be considered. In addition consideration to the exterior cladding and colour of buildings will be controlled to ensure they are sensitive to the surrounding area.

In relation to the Egmont Road Industrial C Environment Area it is important to ensure the potential adverse effects on the environment associated in particular with servicing of the site and amenity matters, such as design of buildings and site landscaping are managed. This will ensure that at the interface between ENVIRONMENT AREAS, the effect on amenity from “overspill” is minimised.

The Future Urban Development OVERLAY identifies the FUTURE URBAN GROWTH AREAS on the planning maps. It is important that when having regard to the character of the receiving environment and cumulative effects, that activities should not have adverse effects that diminish the amenity of any neighbouring Future Urban Development OVERLAY and therefore compromise the future rezoning and subsequent development of the FUTURE URBAN GROWTH AREA.

Policy 1.3

New activities that are sensitive to the elements that define the character of the area in which they intend to locate should be designed and/or located to avoid conflict.

Methods of Implementation 1.3

- (a) Rules specifying standards relating to:
 - (i) separation distances between HABITABLE BUILDINGS and intensive pig and chicken farming activities in the RURAL ENVIRONMENT AREA;
 - (ii) sound attenuation of NOISE SENSITIVE ROOMS within the BUSINESS and INDUSTRIAL ENVIRONMENT AREAS;
 - (iii) location of NOISE SENSITIVE ACTIVITIES within the AIR NOISE BOUNDARY and SEL95 BOUNDARY at New Plymouth airport;
 - (iv) sound attenuation of NOISE SENSITIVE ROOMS between the AIR NOISE BOUNDARY and the OUTER CONTROL BOUNDARY for New Plymouth airport;
 - (v) location of NOISE SENSITIVE ACTIVITIES within the PORT NOISE inner control boundary at Port Taranaki; and
 - (vi) sound attenuation of NOISE SENSITIVE ROOMS within the noise control boundaries at Port Taranaki.
- (b) Conditions on resource consents relating to the provision of measures to mitigate the adverse effects on the sensitive activities such as:
 - (i) buffer strips;
 - (ii) landscaping; and
 - (iii) double glazing.

- (c) Use of land information memoranda and property information memoranda; and
- (d) Information and education advice on possible management techniques to address reverse sensitivity issues, including design guidelines for the sound attenuation of NOISE SENSITIVE ROOMS.

Reasons 1.3

In considering effects of activities on the environment it is important to recognise the differing levels of amenity between areas. For example, residential areas have much higher levels of amenity than industrial or business areas, and community expectations reflect this. Past planning practices have recognised that business, rural and industrial activities can generate effects incompatible with residential uses, and have provided for this by physically separating such activities. This has resulted in the aggregation of activities with like effect and areas with differing levels of amenity.

Activities intending to locate within a particular area need to recognise the level of amenity within it and should not have unrealistic expectations. Some activities may result in some degree of adverse effect, even if controlled to the best practicable levels, if the adjacent land use is sensitive to them. For example, the establishment of new residential uses adjacent to existing piggeries, quarries or other 'traditional' rural activities, or the establishment of new NOISE SENSITIVE ACTIVITIES in proximity to New Plymouth airport. The establishment of such sensitive activities in these locations can give rise to adverse effects on the existing activity, a phenomenon referred to as 'reverse sensitivity'.

The issue of 'reverse sensitivity' is not new. It is used to refer to the effects of the existence of sensitive activities on other activities within their vicinity, particularly by leading to restraints in the operation of those other activities. In the past, planning instruments have used lists to determine what activities may establish where. This practice is not consistent with the effects based approach of the ACT.

Rather than disallow such sensitive activities to establish within the RURAL, BUSINESS and INDUSTRIAL ENVIRONMENT AREAS, it is considered more appropriate to minimise the potential for conflict. Therefore the rules relate to those activities where conflict has arisen in the past or where the community has raised concern. In some cases stricter regulation is justified. The plan regulates

the location of specific NOISE SENSITIVE ACTIVITIES next to New Plymouth airport and at Port Taranaki, acknowledging the significance and importance of these facilities to the district, and the unique nature of the resource management issues involved.

Standards for the RURAL ENVIRONMENT AREA are based on the existing character, which in turn is a reflection of the traditional predominant land uses within them. With the development of a trend towards rural-residential living, a potential for conflict has developed as 'lifestylers' move into rural areas with expectations of the rural environment that are not always reflective of its true nature.

Traditional productive uses of the rural environment, such as piggeries and chicken farms, can create effects, such as odour or dust, at higher levels than would be acceptable within a residential environment. This is an accepted part of the rural character. The operation of established uses that meet the standards set for the RURAL ENVIRONMENT AREA should not be constrained by the establishment of activities sensitive to such elements. Where a new sensitive land use establishes next to an established rural activity, the onus is on the former to provide the environment it requires through mitigation measures such as separation distances and buffer planting. The use of setbacks complements the approach taken within the Regional Air Quality Plan for Taranaki (1997). Establishment of new 'odorous' activities are controlled by the regional council.

Activities within the BUSINESS ENVIRONMENT AREAS should recognise the 'market place' nature of business areas and use design methods, or locations that enable them to enjoy the aural amenity they desire. This also applies within the INDUSTRIAL ENVIRONMENT AREAS. BUILDINGS locating in close proximity to New Plymouth airport will also be required to take into account the higher noise levels in their design and construction. The ERECTION and use of BUILDINGS for NOISE SENSITIVE ACTIVITIES within the airport noise control boundaries are subject to specific rules.

With regard to Port Taranaki, NOISE SENSITIVE ACTIVITIES and NOISE SENSITIVE ROOMS, being either new development, or alterations and additions to existing development, and located seaward of the PORT NOISE outer control boundary will be required to take into account port related noise in their design and construction. For the location of PORT NOISE control boundaries refer to Diagram 12.4 in Appendix 12.

Information and education through the use of the land information memorandum and through advice to customers can help avoid conflict through reverse sensitivity. The key point is that under the ACT, the emphasis has shifted from the provision for specific types of activities within particular areas (or conversely their preclusion). It is the effects of the activity that are important and the level of effect that is acceptable is dependent on the character of the area. Therefore sensitive activities should recognise that levels of amenity can be lower than they require in some areas.

Decisions of both the Environment Court (ref Auckland Regional Council v Auckland City Council, 10/97) and policy of Taranaki Regional Council recognise such methods as a way to achieve integrated management of resources.

Anticipated Environmental Results 1

- (a) Incompatible effects of activities within or between each ENVIRONMENT AREA are avoided, remedied or mitigated.
- (b) Use of land that is appropriate to the character of each ENVIRONMENT AREA.
- (c) The rezoning of the FUTURE URBAN GROWTH AREAS is not compromised by inappropriate subdivision and/or development within the Future Urban Development OVERLAY.
- (d) The rezoning of the FUTURE URBAN GROWTH AREAS is not compromised by inappropriate development in the RURAL ENVIRONMENT AREA adjacent to the Future Urban Development

Indicators 1

- (a) Justified complaints regarding adverse effects generated by a use established through the resource consent process.
- (b) An assessment of land use consents granted for non-complying activities.
- (c) Complaints received regarding complying activities.
- (d) The rezoning of the FUTURE URBAN GROWTH AREAS.

Issue 1A: The adverse effects of activities on the future rezoning and development of areas identified as FUTURE URBAN GROWTH AREAS

The Land Supply Review was initiated in 2006 in response to recent economic and household growth. The aim of the Land Supply Review was to address the supply of residential and employment land in New Plymouth/Bell Block and in those other towns which currently have residential zoning and have the physical potential to grow. This included Waitara, Inglewood, Okato, Onaero, Lepperton and Egmont Village. Oakura and Urenui were considered separately through the Coastal Strategy Structure Plans. The Land Supply Review also considered the need for further employment land in the larger towns of New Plymouth, Bell Block, Waitara and Inglewood.

The Framework for Growth (March 2008), the Oakura Structure Plan and the Urenui Structure Plan set out the recommended growth direction policies for the urban expansion of land in the district as a result of the Land Supply Review and the Coastal Strategy Structure Plans through the identification of FUTURE URBAN GROWTH AREAS. The FUTURE URBAN GROWTH AREAS therefore provide the context for future COUNCIL decisions related to managing residential and commercial growth and ensuring that COUNCIL funded infrastructure is delivered in a cost effective and timely manner based on these priorities. The FUTURE URBAN GROWTH AREAS also provide the COUNCIL with the necessary direction and context for assessing any urban growth related private plan changes.

One of the key principles underpinning the Framework for Growth is that a compact urban form is desirable to ensure the efficient use of land. Urban development should be focussed into or immediately around existing towns where services and infrastructure exist, or can be efficiently provided. Compact towns also encourage a density of population necessary to support alternative passenger transport and local services.

There is an inter-relationship of land use and transport planning, each informing the other. The Land Supply Review and the subsequent Framework for Growth outcomes have been factored into the New Plymouth Strategic Study (regarding transportation) which in turn affects calculations of traffic effects on the state highway and related local roading network and on timeframes for the development of land.

Future Urban Development OVERLAY

The FUTURE URBAN GROWTH AREAS are identified on the planning maps through the Future Urban Development OVERLAY.

Certain activities that are normally accepted in rural areas and generally deemed consistent with rural character and amenity values have the potential to compromise the rezoning and future development of the future urban growth areas. The potential activities include pig and poultry farming, INDUSTRIAL ACTIVITY, certain BUSINESS OR COMMERCIAL ACTIVITY, certain RESIDENTIAL OR COMMUNITY ACTIVITY, hazardous FACILITY and subdivision.

These activities could generate effects that would preclude rezoning and the subsequent effective and efficient development of future urban growth areas for their intended purpose. This applies particularly to future urban growth areas that are intended to provide for residential development.

The rules associated with the Future Urban Development OVERLAY provide COUNCIL with the ability to consider the potential impacts of subdivision and development within, and development adjacent to, those parts of the RURAL ENVIRONMENT AREA that have been identified as FUTURE URBAN GROWTH AREAS. The Future Urban Development OVERLAY provisions are temporary in nature and will only remain in force for an individual FUTURE URBAN GROWTH AREA until the plan change to rezone the land is operative.

Objective 1A

To ensure that activities within and adjacent to the Future Urban Development OVERLAY do not adversely affect the ability to rezone and subsequently develop areas identified as FUTURE URBAN GROWTH AREAS.

Policy 1A.1

Activities within the Future Urban Development OVERLAY should be located and undertaken in a manner that does not have any actual or potential adverse effects on the future rezoning and subsequent development of land identified as a FUTURE URBAN GROWTH AREA.

Methods of Implementation 1A.1

- (a) Develop a Future Urban Development Overlay to identify the future urban growth areas on the planning maps.
- (b) Rules specifying that the future rezoning and subsequent development of the FUTURE URBAN GROWTH AREAS are not compromised by inappropriate development within the Future Urban Development OVERLAY in relation to:
 - (i) Intensive pig and poultry farming activities.
 - (ii) INDUSTRIAL ACTIVITY.
 - (iii) BUSINESS OR COMMERCIAL activity and RESIDENTIAL OR COMMUNITY ACTIVITY.
 - (iv) hazardous FACILITY.

Reasons 1A.1

The Future Urban Development OVERLAY recognises the need to consider the future rezoning and subsequent development potential of the FUTURE URBAN GROWTH AREAS within the RURAL ENVIRONMENT AREA identified by the Framework for Growth. A greater level of consideration is required over activities that could potentially compromise the future rezoning and subsequent development of the FUTURE URBAN GROWTH AREAS.

The current pattern of land use within the FUTURE URBAN GROWTH AREAS is predominantly rural dominated by a combination of grazing, dairy farming and rural residential activities. These activities are not considered to be an impediment to the transition to residential or employment related development.

There are some activities associated with the rural environment which due to their scale, capital intensiveness, and their potential adverse effects, could potentially preclude or alternatively reduce the area of land available for rezoning and subsequent development.

Of particular concern are activities associated with intensive pig and poultry farming. The effects are principally those associated with odour and reverse sensitivity considerations in relation to new residential development in close proximity. The Future Urban Development OVERLAY therefore treats intensive poultry and pig farming as non-complying activities through rules relating to the ERECTION OF STRUCTURES or BUILDINGS within the FUTURE URBAN GROWTH AREAS.

With respect to INDUSTRIAL ACTIVITY there are various potential issues including those associated with noise and traffic generation. The Future Urban Development OVERLAY therefore treats INDUSTRIAL ACTIVITY as non-complying activities through rules relating to the ERECTION of STRUCTURES or BUILDINGS within the FUTURE URBAN GROWTH AREAS.

The provisions related to the Future Urban Development OVERLAY enable the COUNCIL to consider each proposal on its merits, but by treating these activities as a non-complying activity, the statutory test is being set relatively high.

A similar approach is taken in relation to any BUSINESS OR COMMERCIAL ACTIVITY and any RESIDENTIAL OR COMMUNITY ACTIVITY. However, in recognition that the effects of certain BUSINESS OR COMMERCIAL ACTIVITY and certain RESIDENTIAL OR COMMUNITY ACTIVITY might be acceptable the statutory test is set lower at discretionary through rules relating to the ERECTION of STRUCTURES or BUILDINGS within the Future Urban Development OVERLAY.

To provide certainty to landowners the ERECTION of a single DWELLING on a SITE is classified as a permitted activity within the Future Urban Development OVERLAY.

With respect to a HAZARDOUS FACILITY the statutory test is set to that of a RESIDENTIAL ENVIRONMENT AREA within the Future Urban Development OVERLAY.

Policy 1A.2

Subdivision of land within the Future Urban Development OVERLAY should be located and undertaken in a manner that does not have any actual or potential adverse effects on the future rezoning and subsequent development of land identified as a FUTURE URBAN GROWTH AREA.

Methods of Implementation 1A.2

- (a) Develop a Future Urban Development OVERLAY to identify the FUTURE URBAN GROWTH AREAS on the planning maps.
- (b) Rules specifying that the future rezoning and subsequent development of the FUTURE URBAN GROWTH AREAS are not compromised by inappropriate subdivision within the Future Urban Development OVERLAY.

Reasons 1A.2

The subdivision of land within the Future Urban Development OVERLAY needs to be constrained so that options for the future rezoning and development of FUTURE URBAN GROWTH AREAS are not compromised.

Subdivision of rural land within the FUTURE URBAN GROWTH AREAS is therefore constrained, by maintaining the twenty hectare minimum lot size as a controlled activity, but removing the additional RURAL ENVIRONMENT AREA small lot provisions. Therefore, all other proposed subdivision within the Future Urban Development OVERLAY that results in any parcels less than twenty hectares is treated as non-complying.

Policy 1A.3

Activities within the RURAL ENVIRONMENT AREA should be undertaken in a manner that does not have any actual or potential adverse effects on the future rezoning and subsequent development of adjacent FUTURE URBAN GROWTH AREAS as identified by the Future Urban Development OVERLAY.

Methods of Implementation 1A.3

- (a) Develop a Future Urban Development OVERLAY to identify the FUTURE URBAN GROWTH AREAS on the planning maps.
- (b) Rules specifying that the future rezoning and subsequent development of the FUTURE URBAN GROWTH AREAS are not compromised by intensive pig and poultry farming activity and/or INDUSTRIAL ACTIVITY adjacent to the Future Urban Development OVERLAY.

Reasons 1A.3

The Framework for Growth has been adopted by the COUNCIL as the means by which the requirement for additional land for FUTURE URBAN GROWTH AREAS is identified. The Future Urban Development OVERLAY is the means by which the FUTURE URBAN GROWTH AREAS are identified on the planning maps. It is considered appropriate to provide rules for certain activities situated within the RURAL ENVIRONMENT AREA, but adjacent to the Future Urban Development OVERLAY that would preclude rezoning and the subsequent effective and efficient development of FUTURE URBAN GROWTH AREAS for their intended purposes.

Therefore intensive pig and poultry farming and INDUSTRIAL ACTIVITY are treated as non-complying activities through rules relating to the ERECTION of STRUCTURES or BUILDINGS within specified distance of the Future Urban Development OVERLAY.

The rules enable the COUNCIL to consider certain activities that may in the long-term have adverse effects on the ability to re-develop land identified as FUTURE URBAN GROWTH AREAS. These activities have the potential to generate adverse effects which lie beyond the boundaries of their specific sites, particularly in terms of odour, noise, traffic generation, and adverse visual effects. These activities would be incompatible with future rezoning and development of the adjacent FUTURE URBAN GROWTH AREA.

Anticipated Environmental Results 1A

- (a) The rezoning of the FUTURE URBAN GROWTH AREAS is not compromised by inappropriate subdivision and/or development within the Future Urban Development OVERLAY.
- b) The rezoning of the FUTURE URBAN GROWTH AREAS is not compromised by inappropriate development in the RURAL ENVIRONMENT AREA adjacent to the Future Urban Development OVERLAY.

Indicators 1A

- (a) The rezoning of the FUTURE URBAN GROWTH AREAS.

Issue 2: Adverse effects on amenity, health and safety due to LIGHT OVERSPILL, GLARE, noise, dust and the consumption of liquor

There are a number of effects associated with activities that are considered to constitute ‘nuisances’ when they adversely affect the environment.

LIGHT OVERSPILL and GLARE

The use of artificial light provides significant benefits to the community’s social and economic wellbeing as well as being beneficial to health and safety. However, it can also give rise to adverse effects on the amenity of localities and the health of residents. Excessive light levels in residential and rural areas can detract from amenity values and also cause sleep disturbance to residents.

While historically rare in the district, GLARE can also adversely affect environmental pleasantness and coherence, or the safety of ROAD users and air traffic (refer to Issues 20 and 21, Traffic and Transport).

There is a variety of potential sources of unwanted artificial light that may result in LIGHT OVERSPILL and GLARE adversely affecting SITES adjoining a light source. These include:

- Floodlighting of outdoor recreational facilities.
- Lighting associated with a TEMPORARY EVENT.
- Sunlight striking highly reflective surfaces.
- General lighting (interior and exterior) of business and industrial premises.
- Security lighting of business and industrial premises.
- Street lighting for traffic and pedestrian safety.
- Security lighting of residential BUILDINGS and properties.
- Illuminated ADVERTISING SIGNS.
- Flaring of energy (oil and gas) products.

Issue 23: The need to comprehensively plan for future urban development

FUTURE URBAN GROWTH AREAS, essentially ‘greenfield’ areas that are rural in character, have been identified for conversion to residential and industrial/commercial activity as discussed under Issue 1AF. These areas are progressively being rezoned for urban use. There are opportunities for these areas to be comprehensively planned to address site specific issues and to ensure the resulting development achieves desirable planning objectives and satisfactory environmental outcomes.

Some of the areas for future urban development will have site specific issues that will need to be addressed by detailed planning to ensure the comprehensive development of the area. These issues can be compounded where the area for future development is in multiple land holdings in separate ownership. If an area is not comprehensively planned there is a risk that the resulting development will be fragmented and disjointed and will achieve unsatisfactory environmental outcomes. Such outcomes can result in places that are less than optimal in terms of pleasantness, coherence, convenience and accessibility for the persons and communities that will reside there.

Connectivity of transport corridors and the orderly and logical extension of infrastructure may not be able to be adequately considered without a comprehensively planned approach. Site specific features or constraints will only get considered if they are currently listed in the District Plan; and it is known there are such features and constraints that are not currently identified in the District Plan in some areas identified for future urban growth. Therefore to achieve desired environmental outcomes where complex site specific issues arise within defined geographical areas, an integrated and comprehensive planning approach, utilising the mechanism of structure plans is required. There are numerous opportunities

to achieve this on land identified for future urban use prior to subdivision or land development occurring.

Objective 23

That land identified for future urban use is comprehensively planned to facilitate an integrated approach to land development while addressing site specific issues to provide for accessible, connected, efficient, liveable communities and coherent urban spaces.

Policy 23.1

To control the design and layout of future urban areas through structure plans to allow for the comprehensive development of the area by ensuring:

- a) The type, location and density of the development is suitable for the site;
- b) Infrastructure is provided in a co-ordinated manner by considering location, type and staging;
- c) The development considers topography and minimises changes to landform;
- d) That the constraints are identified and managed to ensure resilient and safe communities.
- e) Interfaces with surrounding land-uses are assessed and adverse effects are mitigated;
- f) Open space, parks and esplanade reserves or strips are provided for;
- g) Connectivity and accessible urban form is provided for; and
- h) That special features are recognised and that those features of particular significance are protected.

Methods of Implementation 23.1

Rules requiring development and subdivision to be undertaken in accordance with the relevant structure plan.

Reasons 23.1

To achieve desired environmental outcomes where complex site specific issues arise within a defined geographical area, an integrated, comprehensive development approach is required. Some of the site specific issues that arise within future urban areas are unable to be addressed by current mechanisms in the District Plan; therefore a structure plan is required to address these. A structure plan is a framework to guide the development of an area. A structure plan contains maps, concept plans and is supported by text explaining the background to the issues and what is trying to be achieved through the structure plan. A structure plan is a tool that allows integrated management, staging of development and co-ordination of infrastructure provisions for land owned in multiple ownership to ensure comprehensive development occurs in the most sustainable manner.

Each area that is developed for future urban use will have different density capacity and therefore layout and development type needs to be considered for each area. This will ensure that co-ordinated and compatible development patterns and densities are achieved across all parcels of land within the area that is being rezoned for future urban use. This also allows for a better understanding of inter-related issues and ensures the best comprehensively planned approach is used. When land is held in multiple land holdings in separate ownership it can make it more difficult to comprehensively develop the area. The aim is to avoid piecemeal development and encourage an integrated development pattern that creates a high quality living environment. The provision of infrastructure (roading, sewerage, water and stormwater) is a major component for subdivision and development of an area. It is crucial that consideration is given to location, type and staging of infrastructure to ensure that the area can be developed in a comprehensive manner that will result in integrated, connected, efficient and liveable communities.

It is important that the topography and landscape character of the area is taken into consideration in the design and layout phase. Land development should take into account the topography to avoid unnecessary earthworks and work with the existing landforms to ensure that development can be accommodated into the receiving environment.

Areas prone to hazards (e.g. flooding and liquefaction), contaminated land and or other engineering constraints (such as fill) may need to be addressed early on in the design and layout of the land to ensure resilient and safe communities can develop and live in these areas.

In some circumstances a buffer may be considered necessary between the area being rezoned for future urban use and existing neighbouring land uses to avoid reverse sensitivity and conflict between incompatible land uses. It is important that this is considered at the design and layout stage for the area that is being developed or subdivided to ensure that any effects are mitigated between conflicting land uses.

Open space, community facilities, walkways and esplanade reserve/strips are important considerations for any area of land that is being subdivided or developed. It is important that an assessment is undertaken to determine what open space is required and that it is provided to meet the needs of the community. Connected urban form is important for achieving high quality urban environments. This should take into account all types of transport modes including pedestrians, cyclists and cars. Integration of transport routes and linkages with surrounding land uses beyond the site is also important.

Special features can relate to the protection of sites, or other ecological features or cultural, historical or amenity values within areas for future urban use. It is crucial that special features are recognised and protected if required. This protection needs to be factored into the design and layout of the development from the outset.

Waitara Area A and Bell Block Area Q have been rezoned from RURAL ENVIRONMENT AREA to RESIDENTIAL A ENVIRONMENT AREA and structure plans have been developed to achieve the desired environmental outcomes for those particular areas. A more onerous resource consent process is required for subdivision or development that is not undertaken in accordance with the structure plans identified in Appendix 30 (Waitara Area A) and Appendix 31 (Bell Block Area Q) respectively.

Policy 23.2

To ensure stormwater within the Waitara Area A structure plan area is discharged into low impact designed stormwater systems to minimise the environmental impact, including the impact on cultural values.

Reasons 23.2

The Tangaroa Stream runs through the Waitara Area A structure plan and then runs through to the Manukorihi Pa (Waahi Tapu and Archaeological site 402 in the District Plan). Further downstream the Tangaroa Stream is also linked to Waahi Tapu and Archaeological Site 429 (Taurangawaka swamp/excavation harbour) which is situated to the north-west of Manukorihi Pa. The portion of the Tangaroa Stream that runs thorough Waitara Area A is not listed as a separate WAAHI TAPU or ARCHAEOLOGICAL SITE in the District Plan, however, the site is of cultural and spiritual significance to Otaraua and Manukorihi hapu.

Technical assessments for Waitara Area A determined the most logical and sensible way to manage stormwater disposal is to have the stormwater disposal from ROADS, right of ways and paved surfaces discharging into the stream, because wetland areas significantly reduce the runoff and hence peak flows. Therefore it is recommended that the stream is retained when developing this area.

Direct stormwater discharges to the stream can cause adverse effects on the environment. An increase in stormwater discharge could contaminate the stream. Manukorihi and Otaraua hapu have concerns over additional stormwater entering the Tangaroa Stream and polluting and damaging the stream. A solution for this is to have the stormwater discharged into low impact stormwater systems (e.g. swales and rain gardens). Low impact design approaches to stormwater management can be simple and effective tools that ensure potential adverse effects on people, property and infrastructure is minimised. If stormwater is discharged into a low impact stormwater system this will ensure that additional stormwater entering the Tangaroa Stream will have a positive effect on the stream health and aims to enhance water quality.

Low impact design techniques are simple, cost effective tools which help manage stormwater in a sustainable way. Managing stormwater runoff close to its source through site design can provide a number of benefits; it will enhance the amenity of the environment and improve community liveability. Low impact stormwater design can make the stormwater discharge from Waitara Area A hydraulically neutral by reducing peak flows either before they enter the stream or within the stream channel.

NZS4404:2010 Land Development and Subdivision infrastructure under clause 4.3.7.1 lists the types of low impact design stormwater systems. Swales and rain gardens are the preferred option; however, alternative low impact stormwater systems may be appropriate for Waitara Area A. Swales are vegetated areas designed to remove contaminants from stormwater runoff. As stormwater is moved through the vegetation contaminants are removed by filtration, infiltrations, absorption and biological uptake. When the stormwater enters the Tangaroa Stream it is intended that it will be free from contaminants and will not damage the environmental and cultural values of the stream.

Policy 23.3

To control the number and location of additional VEHICLE ACCESS POINTS in part of the Waitara Area A structure plan area to ensure pedestrian safety.

Reasons 23.3

Waitara Area A adjoins Waitara High School and a large number of pedestrians use this area from Manukorihi Intermediate and Waitara High School. To ensure safety it is important to restrict future VEHICLE ACCESS POINTS between the common boundary of Lot 1 DP 14007 and Lot 3 DP 14008. Additional VEHICLE ACCESS POINTS could hinder the desired indicative roading pattern and make Lot 1 DP 14007 unsafe for the high number of pedestrians that use this area. Therefore it is considered essential that an assessment of additional VEHICLE ACCESS POINTS proposed is undertaken to ensure consideration is given to any potential conflicts between vehicles and pedestrians that arise to enable the effects on pedestrian safety to be assessed.

Policy 23.4

To provide a safe and efficient ROAD TRANSPORTATION NETWORK through the control of the number and location of VEHICLE ACCESS POINTS onto Airport Drive and Devon Road (SH3) within the Bell Block Area Q Structure Plan area to:

- a) Ensure that new VEHICLE ACCESS POINTS to Airport Drive south of Parklands Avenue are appropriately managed to ensure the safety and efficiency, and the sustainable management of the road network;

- b) Ensure that new VEHICLE ACCESS POINTS to Airport Drive north of Parklands Avenue are avoided as far as is practicable; and
- c) Ensure that existing VEHICLE ACCESS POINTS to Devon Road (SH3) are closed where alternative road access is available upon significant redevelopment of the properties identified as SH3 restricted access along Devon Road.
- d) Strongly encourage the development of new ROADS in general accordance with the Bell Block Area Q Structure Plan.

Reasons 23.4

Policy 23.4 and associated rules OL60E and OL60F are to ensure that the effects of residential development and new VEHICLE ACCESS POINTS on the ROAD TRANSPORTATION NETWORK are able to be considered.

Airport Drive is an ARTERIAL ROAD. Residential development will be more intensive than the existing rural development historically permitted in the area. Rezoning of Area Q therefore has the potential to create demand for a significant increase in the number of VEHICLE ACCESS POINTS to Airport Drive. A significant increase in the number of VEHICLE ACCESS POINTS to Airport Drive, has the potential to effect the traffic safety and efficiency of Airport Drive as an ARTERIAL ROAD.

The Area Q Structure Plan aims to manage new VEHICLE ACCESS POINTS to Airport Drive south of Parklands Avenue prior to the realignment of Airport Drive in order to manage potential adverse effects on the safety and efficiency of Airport Drive in this location and the sustainable management of the wider road network. The expectation is that any subdivision of Airport Drive properties south of Parklands Avenue prior to the realignment of Airport Drive would require new VEHICLE ACCESS POINTS internalised into Area Q.

The Area Q Structure Plan aims to avoid new VEHICLE ACCESS POINTS to Airport Drive north of Parklands Avenue. The expectation is that any subdivision of Airport Drive properties north of the future intersection of Parklands Avenue would require new VEHICLE ACCESS POINTS internalised into Area Q.

SH3 is a STATE HIGHWAY LIMITED ACCESS ROAD. Following the provision of alternative road access to the immediate north of the identified properties along

Devon Road (SH3) for Rule OL60F it is expected that future development of these properties should take advantage of the opportunity to close VEHICLE ACCESS POINTS to SH3 through provision of VEHICLE ACCESS POINTS to the local road to the north.

Policy 23.5

To ensure landowners, developers and contractors are aware of the requirements of the Heritage New Zealand Pouhere Taonga Act 2014 and/or other national legislation relating to archaeological sites with respect to development and subdivision in the Waitara Area A Structure Plan and the Bell Block Area Q Structure Plan.

Methods of Implementation 23.5

Advocate to landowners, developers and contractors regarding the requirements of the Heritage New Zealand Pouhere Taonga Act 2014 and/or other national legislation relating to archaeological sites with respect to development and subdivision within the Waitara Area A Structure Plan and the Bell Block Area Q Structure Plan prior to and during any subdivision and/or development.

Reasons 23.5

The proximity of Manukorihi Pa to the northern end of Waitara Area A is one reason for requiring the alerting of landowners and developers to the requirements of the Heritage New Zealand Pouhere Taonga Act 2014 and/or other national legislation relating to archaeological sites. The second reason is that while taonga from the Tangaroa Stream have been found in the vicinity of Waitara Area A, and there are anecdotal concerns that more taonga could be found, there is not sufficient evidence to include any area within Waitara Area A Structure Plan as either WAAHI TAONGA/SITES OF SIGNIFICANCE TO MAORI or ARCHAEOLOGICAL SITE. Despite this the anecdotal concerns that taonga are present in Waitara Area A increases the likelihood of artefacts being found when undertaking development. Landowners, developers and contractors need to be made aware that any discovery of taonga and/or any archaeological artefact(s) requires compliance with the Heritage New Zealand Pouhere Taonga Act 2014 and other national legislation relating to archaeological sites, including stopping works until the appropriate authorities are obtained.

The Bell Block Area Q Structure Plan area includes a known archaeological site (District Plan reference 502) and the wider surrounding area boasts a rich history of settlement. Desktop archaeological reports undertaken with respect to the rezoning of Area Q have indicated that there is potential for unrecorded archaeological sites to be discovered within the Bell Block Area Q Structure Plan area. Historic survey plans show at least one feature, being a ditch, bank and fence with detail showing that the structure was erected in 1872. While the initial archaeological assessments of the area have not provided sufficient evidence to identify any further sites as WAAHI TAONGA/SITES OF SIGNIFICANCE TO MAORI or ARCHAEOLOGICAL SITES, they have highlighted the potential for further archaeological discoveries to be made within the area.

Landowners, developers and contractors need to be made aware that any discovery of taonga and/or any archaeological artefact(s) requires compliance with the Heritage New Zealand Pouhere Taonga Act 2014 and other national legislation relating to archaeological sites, including stopping works until the appropriate authorities are obtained.

Policy 23.6

To ensure that subdivision and development within the New Plymouth Airport 50dB_{L_{dn}} noise contour as shown on the Bell Block Area Q Structure Plan considers the potential for reverse sensitivity adverse effects with respect to noise from the New Plymouth Airport through implementing appropriate remedial measures to protect the long term safety, efficiency, operation, maintenance and upgrading of the New Plymouth Airport as infrastructure of significance to the region.

Reasons 23.6

The New Plymouth Airport is the only fully commercial air freight and passenger airport in the region. It is recognised in the Regional Policy Statement for Taranaki (RPS) as being infrastructure of significance to the region. The RPS requires that the efficient and effective operation, maintenance and upgrading of the Airport be provided for (INF Policy 1) while adverse effects of subdivision, use and development on the safety, efficiency, operation, maintenance and upgrading of the Airport are required to be avoided or mitigated (INF Policy 2)

The New Plymouth Airport noise contours are out of date, and the Council is in the process of re-evaluating the noise related land use planning controls. It is

important that new subdivision and development within Area Q does not restrict the efficient and effective operation, maintenance and upgrading of the Airport. To a large extent, this can be achieved by taking into account the potential for reverse sensitivity effects with respect to noise from the Airport until the updated noise contours and associated land use planning controls are finalised through a plan change process.

In the interim, subdivision and development within Area Q within the New Plymouth Airport 50dB_{L_{dn}} noise contour as shown on the Bell Block Area Q Structure Plan is required to remedy the potential for reverse sensitivity effects of noise from the New Plymouth Airport through measures including but not limited to; subdivision consent notices acknowledging noise from the NP Airport; subdivision consent notices imposing a no complaints covenant in respect of airport noise on new titles created; and, new habitable buildings or habitable additions to existing buildings being required to install above industry standard noise attenuation materials (e.g. noise insulation in ceilings, walls and underfloor and window glazing).

Policy 23.7

To ensure that subdivision and development within proximity to Devon Road SH3 considers the potential for reverse sensitivity adverse effects with respect to noise from the Devon Road SH3 through implementing appropriate remedial measures to protect the long term safety, efficiency, operation, maintenance and upgrading of the Devon Road SH3 as infrastructure of significance to the region.

Reasons 23.7

Where NOISE SENSITIVE ACTIVITY or NOISE SENSITIVE ROOMs are affected by activities of regional significance such as Devon Road SH3, acoustic insulation rules will be applied, which will require the remediation of noise in the receiving environment to ensure that the amenity of existing and future residents is protected.