

Before the Independent Hearing Commissioners
Appointed by the Taranaki Regional Council

Under the Resource Management Act 1991

In the matter of a resource consent for air discharge relating to the poultry farm
operation at 58 Airport Drive, New Plymouth (5262-3.0)

Summary Statement and Rebuttal Evidence of Christian James McDean

14 February 2022

Applicant's solicitor:

Alex Booker
Anderson Lloyd
Level 3, 70 Gloucester Street, Christchurch 8013
PO Box 13831, Armagh, Christchurch 8141
DX Box WX10009
p + 64 3 379 0037
alex.booker@al.nz

**anderson
lloyd.**

- 1 My full name is Christian James McDean. I prepared a statement of evidence dated 28th January 2022 in relation to planning matters. My qualifications and experience are set out in that statement.
- 2 I repeat the confirmation given in that statement that I have read and agree to comply with the Code of Conduct for Expert Witnesses in the Environment Court.

Summary

Rule 52 vs. Rule 54

- 3 As discussed within my evidence in chief, I am of the opinion that Rule 52 is the appropriate rule under which this application should be assessed and this view is unchanged following a review of the submitters evidence including expert planning evidence as submitted by Ms Rowan from New Plymouth District Council and Mr Twigley of BTW Company Limited.
- 4 The farm could operate as a free-range farm under the existing consent as confirmed by Taranaki Regional Council (TRC) Officer Report paragraph 206 - 207, meaning that the nature of the current application is unchanged from what currently could operate on site.
- 5 An additional 'change' stemming from this application is the reduction in bird numbers, this could also be undertaken by AFTL under the existing consent, therefore there is no change in scale of the operation that couldn't already be undertaken.
- 6 I also comment that all of the air discharge specialists have commented within their evidence or the Officer Report that they would expect to see a reduction in odour effects from the changes being implemented by this application:
 - (a) Mr Pene – paragraph 11
 - (b) Ms Ryan – paragraph 15(c)
 - (c) Mr Bedford (Officer Report) – paragraph 259Mr Backshall - paragraph 5.3
 - (d) Mr Van Kekem – paragraph 8.1
- 7 On this basis and as per the NRC Officer Report it is my opinion that this application should be assessed as a restricted discretionary activity under Rule 52, where discretion is restricted to:
 - (a) *Duration of consent*
 - (b) *Monitoring*

- (c) *Effects relating to odour and dust and loss of amenity value of air*
 - (d) *Imposition of limits on or relating to discharge or ambient concentrations of contaminants, or on or relating to mass discharge rates*
 - (e) *Best practicable option to prevent or minimise any adverse effects on the environment*
 - (f) *Any matter contained in Appendix V*
 - (g) *Review of the conditions of consent and the timing and purpose of the review*
- 8 The intensification of Bell Block at an unspecified time in the future is not a matter that could be considered under the matter of discretion listed above.

Receiving Environment

- 9 My assessment of the ability of neighbouring property owners to construct additional dwellings has been accepted by Mr Twigley and not commented on by Mr Williams. I note this assessment was undertaken to confirm the accuracy of sensitive receptors within the area which were used in the modelling undertaken by T&T.
- 10 Notwithstanding my paragraphs 3-8 above I make the following comments in relation to the expert planning evidence as provided by Ms Williams and Mr Twigley in relation to the intensification of the Bell Block area.
- 11 Having read the evidence of Ms Williams from NPDC, I cannot disagree with the facts provided in her statement of evidence regarding the existing and proposed use of the Bell Block area. However, I note that nowhere in this statement of evidence is a date set upon which AFTL could realistically be guaranteed that residential development could and would take place.
- 12 Having read the evidence of Mr Twigley I reiterate my statement made regarding Ms Williams evidence in the paragraph above. Mr Twigley notes in his paragraph 55 that there is *'...a much higher degree of certainty that NPDC will progress a plan change for Area R to be rezoned around the time of the poultry farm consents are due to expire than is expressed in the Officers report and the evidence of Mr McDean'*.
- 13 After reading both Ms Williams and Mr Twigleys evidence, again I cannot disagree that it is certainly NPDC's intention to allow for and provide this intensification.

14 However, without a firm date for this intensification occurring I believe a consent issued for air discharge in line with a possible timeframe for intensification would not be a good outcome.

15 An expiry date based on the best guess for intensification could leave AFTL in a position where they are unable to operate the poultry farm within a rural setting if for any reason this intensification was delayed.

Statutory Assessment

16 When considering the expiry date proposed by TRC, which is supported by AFTL I agree with the legal submissions made by Ms Booker within paragraphs 20-22 in relation to section 104 and the relevance of considering other matters.

17 However, were the commissioners minded to apply section 104(1)(c) to consider the intensification proposed by NPDC in relation to the expiry of the resource consent, it should be restated that no fixed date can be provided by NPDC for this intensification to take place.

18 While both Ms Williams and Mr Twigley have painted a picture of this intensification as being a near certainty I still hold the opinion based on my experience within the planning industry that there exists the possibility that this will not take place in the approximate timeframes proposed and as such a consent duration should be conservative to allow for any potential delay.

19 I note that in paragraph 39 of Mr Whiting's Summary Statement and Rebuttal statement confirms that he is not opposed to relocating this farm to make way for the intensification as proposed when there is certainty of this occurring.

Existing Environment and Permitted Baseline

20 I agree with Mr Twigley in his paragraph 57 that there is no way to know whether the same permitted baseline for poultry would exist when the existing consent expires in 2026.

21 Should there be a proposed rule change, AFTL would have the ability to be involved in that process through the RMA (and more than likely within whatever document(s) replaces the RMA) and if it were a rule that had legal effect the operation would continue under s20A of the RMA until such time as a resource consent determination was made.

Conditions

22 While we accepted the recommended conditions within the Officer Report, following submitter evidence including air quality specialists and the supplementary evidence provided by Mr Bedford of TRC, several additional

conditions have been put forward by these parties that have led to a further review of how these conditions could look.

23 The AFTL team and in particular Mr Pene and Ms Ryan have reviewed these suggested amendments/additions and discussed the merits within their own Summary Statement and Rebuttal documents. I note by in large we have accepted Mr van Kekem's suggested amendments and provided some of our own for a more robust set of conditions. I attach a copy of these conditions as Appendix A. The AFTL additions/amendments have been made in red for ease of review by the commissioners. I have described these changes below:

- (a) The first change is to include a requirement to surrender the existing resource consent should this consent be issued and given effect to. This provides certainty to the community that once the changes proposed by AFTL are carried out, AFTL will no longer be able to farm at the higher stocking rate among other changes proposed.
- (b) The expiration as recommended by the Officer Report has been included within the General Conditions.
- (c) Condition 6 v) has been amended in accordance with Mr van Kekem's comments.
- (d) Condition 7 iii) has been amended to allow for the installation of hot water heaters in the sheds by 1st March 2022. However, we have removed the requirement to remove the gas fired heaters by the same date. Once they become redundant, through the use of hot water heating, these will be removed as timing allows.
- (e) Condition 7 iv) has been amended to include the devices to monitor carbon dioxide and ammonia concentrations as per Mr van Kekem's evidence.
- (f) Condition 9 includes Mr van Kekem's recommendation that a TRC compliance officer shall determine whether there is offensive or objectionable odour beyond the boundary, by way of using Councils standard field odour methodology.
- (g) Condition 10 has been amended to include suspended dust 5mg/m³ being measured as a 1-hour average.
- (h) Condition 13 has been amended in accordance with Mr van Kekem's comments, where details of any complaint shall be provided to TRC as soon as possible but within 24 hours.

- (i) Condition 14 has been amended to provide for a neighbourhood liaison group meeting every six months, or as required by TRC, as the convener/chair. The applicant is happy to meet to discuss the operation of the farm.
- (j) Condition 16 is a new condition requiring natural ground cover to be maintained over 70% at a minimum. This is in accordance with the SPCA Blue Tick programme.
- (k) Condition 17 requires the preparation of an Air Quality Management Plan, with a number of matters (a-xi) to be addressed. This should be seen as a living document that is able to be reviewed as and when required to enable to the farm to operate within industry and animal welfare standards with any changes being provided to TRC and a review mandated every 5 years.

Conclusion

- 24 I consider the assessment of this application as a restricted discretionary activity under Rule 52 as per my paragraphs 3- 7 above to be appropriate to this proposal.
- 25 This activity status would limit the matters to be considered to those related to the air discharge consent and not include the intensification proposed by NPDC.
- 26 Following a review of all the submitter evidence and supplementary information provided by Mr Bedford of TRC, I remain of the opinion that AFTL have demonstrated that the effects of granting this consent with the amended conditions attached are acceptable.

Christian McDean
14 February 2022

APPENDIX A

Airport Farm - Conditions of consent

Key

Officer's Report proposed conditions – 24 January 2022

Applicant's proposed conditions – 15 February 2022

General conditions

a. The consent holder shall pay to the Taranaki Regional Council all the administration, monitoring and supervision costs of this consent, fixed in accordance with section 36 of the Resource Management Act, 1991.

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

c. This resource consent expires on 1 June 2038.

Special conditions

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

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

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

4. That at all times the consent holder shall adopt the best practicable option (as defined in section 2 of the Resource Management Act 1991) to prevent or minimise any actual or likely adverse effect on the environment associated with the discharge of contaminants into the air from the site.

5. That prior to undertaking any alterations to the poultry unit's processes, operations, equipment or layout, as specified in the application for this consent and subsequent information provided to the Taranaki Regional Council and taken into account in assessing the application, or any subsequent application to change consent conditions, which may significantly change the nature or quantity of contaminants emitted from the site, the consent holder shall consult with the Chief Executive, Taranaki Regional Council, and shall obtain any necessary approvals under the Resource Management Act 1991 and its amendments.

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

i) process equipment;

ii) process control equipment and emission control equipment;

iii) supervision and operation management;

iv) management of timing of litter removal, to those meteorological conditions least likely to cause odour to neighbours;

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

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

as described in the application or by subsequent improvement.

7. In particular, the applicant shall install-

- i) 3 roof ridgeline exhaust fans on each shed by 1 March 2022;
- ii) misting devices on each exhaust fan by 1 December 2021 for existing fans and on the new ridgeline fans on each shed by 1 March 2022;
- iii) hot water heaters in ~~and shall remove gas-fired heaters from~~ each shed by 1 March 2022;
- iv) devices to monitor the atmospheric conditions inside each shed, including but not limited to carbon dioxide and ammonia concentrations, and shall retain monitoring records for a period of three months beyond the end of each broiler rearing cycle, by 1 March 2022.

8. The exit ports for the roof ridgeline fans shall be located at a minimum height of 7 metres above ground level, and the roofline fans on shed 3 shall be located at a minimum distance of 100 metres from the dwelling house at 62 Airport Drive.

9. The discharge authorised by this consent shall not give rise to an odour that in the opinion of at least one Compliance Officer of the Taranaki Regional Council as determined in accordance with Council's standard field odour methodology is offensive or objectionable at any location beyond the boundary of the property, at any time. The boundaries of the property are as shown in the application report 'Airport Drive Free Range Poultry Farm Odour Assessment, June 2021', Tonkin and Taylor.

10. The discharges authorised by this consent shall not give rise to suspended or deposited dust at or beyond the boundary of the site that, in the opinion of at least one Compliance Officer of the Taranaki Regional Council, is offensive or objectionable. For the purpose of this condition, discharges in excess of the following limits, beyond the property boundaries, are deemed to be offensive or objectionable:

- i. dust deposition rate 0.13 g/m²/day; and/or
- ii. suspended dust level 5 mg/m³ as a 1-hour average.

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

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

13. The consent holder shall document any allegations of offensive odour or dust brought to ~~it~~ him by neighbours at any time after the issue of this consent, shall provide details to the allegation to Taranaki Regional Council as soon as possible and within 24 hours, and shall retain the documentation for the duration of the consent, and shall make the record available upon request to (i) the informant, and (ii) the Taranaki Regional Council. In order to be

documented, any allegation made must provide the name of the complainant together with the date and the location, at which the alleged event occurred.

14. The consent holder shall attend a neighbourhood liaison group (to be convened and chaired by the Taranaki Regional Council), with meetings to be scheduled **at least** every six months until 1 December 2024, **or as is considered appropriate or necessary**.

15. In accordance with section 128 and section 129 of the Resource Management Act 1991, the Taranaki Regional Council may serve notice of its intention to review, amend, delete or add to the conditions of this resource consent by giving notice of review during the month of June 2023 and/or June 2026 and/or June 2029 and/or June 2032 and/or June 2035 for the purpose of ensuring that the conditions are adequate to deal with any adverse effects on the environment arising from the exercise of this resource consent, which were either not foreseen at the time the application was considered or which it was not appropriate to deal with at the time.

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

17. Within three months following the initial exercise of this consent, the Consent Holder shall provide the Taranaki Regional Council with an Air Quality Management Plan ("Management Plan") for the site.

The Consent Holder shall provide the Taranaki Regional Council with written notice of any subsequent material revisions or amendments to the Management Plan. At a minimum the Management Plan shall be reviewed by the Consent Holder every five years.

The purpose of the Management Plan shall be to document the measures and procedures that will be implemented to achieve compliance conditions of this consent and shall include, but not be limited to the following matters:

- (i) Contact details and responsibilities of key personnel who are responsible for implementing the Management Plan.
- (ii) General odour and dust management procedures for the site;
- (iii) Identify potential sources of odour, dust and other air contaminants that may be emitted from the operation;
- (iv) Measures to be implemented to avoid, remedy or mitigate adverse effects of emissions from these sources;
- (v) Details of instrumental monitoring of shed conditions, including parameters to be measures, alert levels and response actions for alerts;
- (vi) The provision of contact details to neighbours for lodging complaints or feedback;
- (vii) Procedures to minimise dust and odour emissions during litter load out;
- (viii) Protocols to regularly assess litter moisture content and the best practicable steps to be taken to comply with the conditions of this resource consent;
- (ix) Protocols for maintenance of the climate control, heating and ventilation systems;
- (x) Details of contingency measures for significant potential odour or dust events;

- (xi) Procedure for recording and responding to complaints relating to discharges to air. These procedures shall be generally in accordance with the procedures outlined in the Ministry for the Environment Good Practice Guide for Assessing and Managing Odour;
- (xii) Procedures to be used to inform neighbouring property owners and occupiers of significant potential odour or dust events.

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