

**IN THE MATTER OF  
AND**

the Resource Management Act 1991

**IN THE MATTER OF**

a Section 127 of the Resource Management Act 1991 application by Winton Stock Feed Limited to vary conditions of consent for a stock feed depot at 93 Manutahi Road, Bell Block, New Plymouth (LUC17/47070.01).

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**DECISION OF THE HEARING COMMISSIONER APPOINTED BY  
NEW PLYMOUTH DISTRICT COUNCIL PURSUANT TO SECTION 34A OF  
THE RESOURCE MANAGEMENT ACT 1991**

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**Independent Commissioner:**

Mark St.Clair

**29 June 2021**

## **APPOINTMENTS**

- [1] Pursuant to Section 34A of the Resource Management Act 1991 (RMA), independent commissioner Mark St. Clair was appointed as a commissioner by New Plymouth District Council (NPDC) to hear and determine the application lodged by the “Applicant”, Winton Stock Feed Limited, to vary conditions of consent under section 127 of the RMA for a stock feed depot at 93 Manutahi Road, Bell Block, New Plymouth (LUC17/47070.01).

## **PROCEDURAL MATTERS**

### **Minutes/Directions**

- [2] On 4 May 2021, I issued Minute #1 directing the pre-circulation of Council’s Section 42A Report, all of the Applicant’s evidence, and any expert evidence from the submitters as required by Section 103B of the RMA. The timetabling for pre-circulation set out in those directions were met.
- [3] I adjourned the hearing on the 27 May 2021, and issued Minute #2 for the purpose of providing the opportunity for the planners to conference on conditions, the submitter in attendance the opportunity to provide any comment on the revised conditions and time for the Applicant’s right of reply. Again, the timetabling of those actions was met. However, I record that the submitter did not provide any comments as to the revised conditions from the planners’ conferencing.
- [4] Finally, I issued Minute #3 closing the hearing. For completeness, I attach a copy of the minutes as Appendix 1.

### **Scope**

- [5] The reporting officer, Ms Southworth identified in her report that the submission from Mr Candy of 53 Manutahi Road, raised concern as to noise, landscaping and lighting. However, Ms Southworth’s view was that those matters were beyond the scope of the Section 127 application which was only to amend the conditions of consent relating to the amended traffic route for the importation of bulk stock feed to the site.<sup>1</sup> There is no proposed change to the number of vehicles entering or existing the site and this was confirmed by the Applicant at the hearing. Mr Edwards on behalf of the Applicant, concurred with Ms Southworth’s assessment and in response to my questions advise that the Applicant was not offering additional conditions on an Ogier basis in response to the matters raised in the submission. Mr Candy was not present at the hearing to put a different position.

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<sup>1</sup> Section 42A Report, Ms C Southworth, dated 4 May 2021, Paras 72-76

[6] Taking into account all of the above, I find that the additional matters as to noise, landscaping and lighting raised in the submission of Mr Candy are beyond scope of my consideration of the application and hence my jurisdiction to impose any conditions to address those matters. Ms Southworth's assessment in her report, as to potential conditions or amendment to conditions as to noise, landscaping, and lighting are compliance matters that can be followed up by Council outside of this particular application process.

### **Duration of Consent**

[7] The Section 42A Report identified that the submission of Mr Candy raised the matter of whether or not the consent holder was planning to extend the consent beyond 22 December 2022. As pointed out in the Section 42A Report, the date of 22 December 2022 was the lapse date by which the applicant was required to give effect to the existing consent and not an expiry date for that consent. The Section 42A Report records that the original consent has been being given effect to and that there was no requirement for the consent land use activities to cease by a particular date.<sup>2</sup>

[8] I heard no evidence to the contrary. I concur with the assessment of Ms Southworth. The date of 22 December 2022 is the lapse date under section 125 of the RMA, and the consent has already been given effect to.

### **Site visit**

[9] At the hearing I advised the parties, that I undertook a site visit on 26 May 2021 to familiarise myself with the subject site, the submitters' properties and the surrounding environment. I was accompanied on the site visit, by Ms L Elsworth, the owner of the property on which the stock feed operation is conducted.

### **Decision format**

[10] I have had regard to the requirements of Section 113 of the RMA when preparing this decision. In particular I note and have acted in accordance with Section 113(3) which states:

*"A decision prepared under subsection (1) may, -*

*(a) instead of repeating material, cross-refer to all or a part of -*

*(i) the assessment of environmental effects provided by the applicant concerned:*

*(ii) any report prepared under section 41 C, 42A, or 92; or*

*(b) adopt all or a part of the assessment or report, and cross-refer to the material accordingly."*

[11] During the course of the hearing it became apparent that there were particular issues in relation to traffic effects. I therefore focused my questions on these matters. I have consequently focused my decision on those same matters.

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<sup>2</sup> Section 42A Report, Ms C Southworth, dated 4 May 2021, Para 93 [recorded as para 93 should be para 101]

## THE APPLICATION PROCESS

- [12] BTW Ltd, on behalf of Winton Stock Feed Limited, lodged a Section 127 of the RMA application with NPDC to amend the conditions of resource consent LUC LUC17/47070 establish and operate a stock feed storage and distribution operation at 93 Manutahi Road, Bell Block, New Plymouth (the subject site) on 7 October 2020.
- [13] The Section 127 application was limited notified to the owners and occupiers of 53, 95 and 95A Manutahi Road. NPDC received three submissions, from Mr B Candy (53 Manutahi Road), Mr R Cowley (95 Manutahi Road) and Mr M Hareb (95A Manutahi Road). Both Mr Candy and Mr Hareb wished to be heard. The submission from Mr R Cowley of 95 Manutahi Road, was in support/neutral and requested not to be heard.
- [14] A summary of the submissions was detailed in the Section 42A Report<sup>3</sup> prepared by Ms Southworth for the hearing and is not repeated here.
- [15] I record that I read the submissions in full and I have had regard to it as part of my evaluation of the application.
- [16] For completeness, I record that the Applicant obtained written approval from the owners and occupiers of 94 and 97 Manutahi Road.<sup>4</sup>
- [17] As noted above, all expert evidence was pre-circulated in accordance with Section 103B of the RMA. I record that I read all of the evidence and have taken it into account as part of my evaluation of the application.

## THE HEARING and ATTENDANCES

- [18] The hearing was held in the New Plymouth Room at the New Plymouth District Council Offices, 84 Liardet Street, New Plymouth on 27 May 2021, commencing at 10:00am.
- [19] As identified in paragraph 3 above, I adjourned the hearing at 2.10pm on 27 May 2021, in order to provide time for the planners to conference on conditions, the submitter at the hearing the opportunity to respond to those revised conditions and for the Applicant's right of reply in writing (Minute #2).
- [20] The revised conditions from the planners' conferencing session and the reply statement from the Applicant was duly filed and distributed to the parties.
- [21] Having considered that I had all the information I required, I closed the hearing by way of minute (Minute #3) on 11 June 2021.
- [22] The attendances at the hearing were as follows:

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<sup>3</sup> Section 42A Report, Ms C Southworth, dated 5 May 2021, Paras 86-87

<sup>4</sup> Section 42A Report, Ms C Southworth, dated 5 May 2021, Para 41.

### **Applicant**

[23] For the Applicant:

- Mr J Stephens – the Applicant – North Island Representative for Winton Stock Feed Limited.
- Mr I Steele – Traffic Engineer, BTW.
- Mr A Edwards – Planner - BTW.

### **Submitter**

[24] For the Submitter:

- Mr M Hareb – Submitter – 95A Manutahi Road.
- Ms A Duncan – Planner – Landpro (in support only – no evidence pre-circulated or tabled).

### **Council officers**

[25] The following consultants on behalf of Council were in attendance and responded to matters raised:

- Ms C Southworth – Consultant Planner for NPDC, Section 42A reporting officer.
- Mr A Skerrett, - Consultant Traffic Engineer – AMTANZ Ltd.

[26] A Section 42A officer's report was prepared by Ms Southworth – Consultant Planner for NPDC.

[27] I was assisted in an administrative capacity by Ms J Straka, Governance Lead, and Mr C Woollin, Governance Advisor at NPDC.

[28] The parties provided additional material in response to my directions and questions at the hearing.

[29] All of the material presented by the above parties is held on file at NPDC. I took my own notes of the verbal presentations and any answers to my questions. For the sake of brevity I do not repeat that material in the decision. However, I do refer to relevant matters raised in the material in subsequent parts of the decision.

### **LEGAL DESCRIPTION AND ZONING**

[30] The property (“**the subject site**”) is legally described as follows:

**Legal Description:** Lot 1 DP 344340

**Site Area:** 9.2548 Ha more or less

**Site Address:** 93 Manutahi Road, Bell Block, New Plymouth

**District Plan Zone:** Operative District Plan – Rural Environment Area  
Proposed District Plan – Rural Production Zone

## THE EXISTING RESOURCE CONSENT AND PROPOSED VARIATION

[31] The existing resource consent, LUC17/47070, was granted in December 2017, to establish and operate a stock feed storage and distribution operation at the subject site. That consent was granted under delegated authority and subject to twenty-two (22) conditions of consent.<sup>5</sup>

[32] Relevant to the current application, the existing consent conditions require that during bulk import operations, that vehicles turn left onto Manutahi Road when exiting the site and travel on Corbett Road and State Highway 3 on return to the Port for collection of the next load. This is set out in condition 20 of the existing consent.

[33] The Applicant's proposal is to allow vehicles to turn right onto Manutahi Road when exiting the site and travel on Manutahi Road and State Highway 3 on return to the Port for collection of the next load during the bulk import operation. In order to achieve this change, the Applicant applied to amend conditions 1, 20 and 22 of LUC17/47070<sup>6</sup> as follows (underline indicates text to be added and strikethrough indicates text to be deleted):

1. *Except as to meet further conditions of this consent, the use and development of the site shall be as described within the application, except as varied by the section 127 application under LUC17/47070.01 and shall be substantially in accordance with the following information, plans and assessment of environmental effects submitted with the application LUC17/47070:*

- *Resource Consent Application: prepared by BTW Company Ltd, titled 'Stock Feed Depot at 93 Manutahi Road, Bell Block' and dated 4 August 2017.*

- *Traffic Impact Assessment prepared by BTW Company Ltd, titled 'Traffic Impact Assessment – 93 Manutahi Road' and dated 4 August 2017.*

- *Noise Prediction Report prepared by Marshall Day Acoustics, titled 'Molasses Storage Facility: Noise Prediction, Doc Refer RP 001 20170407 and dated 31 May 2017.*

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<sup>5</sup> Section 42A Report, Ms C Southworth, dated 4 May 2021, Para s 72-76

<sup>6</sup> Section 127 Application dated 23 September 2020 and Response to Section 92 Request, dated 5 January 2021 (incorrectly dated 5 January 2020)

20. A Traffic and Noise Management Plan (TNMP) shall be submitted to the Council's Monitoring Officer for approval within ten working days of the s.127 application being granted a minimum of one month prior to the commencement of the stock feed distribution activity on the site. The purpose of the TNMP is to set out how the activity will be managed during bulk importing operations to mitigate adverse noise and traffic safety and efficiency effects from truck and trailer units associated with the stock feed distribution facility. The TNMP is to include, but not be limited to the following:

a) Route definition:

- i. Designated primary route requiring all heavy vehicles to turn left in and ~~left~~ right out of the site only (outside of park traffic periods);
- ii. Designated secondary route enabling heavy vehicles to approach the site from either the east or west along Manutahi Road (during peak traffic periods only) ~~but still being restricted to exit the site via left turn only;~~

b) Driver Education:

- i. No engine braking when approaching the site vehicle access point and avoiding noisy acceleration and braking on and off the site;
- ii. Speed limits: Heavy vehicle speed limit of 20km/h at all times on the site (to include the use of the shared right of way);
- iii. Dipped headlights only to be used during night-time hours on the site (to include use of the shared right of way);
- iv. Management of night-time noise on the site to include no slamming of vehicle gates/doors and driver noise education.

c) Notification protocols for neighbours in advance of bulk import operations.

22 The consent holder shall provide a copy of ~~the~~ an updated approved TNMP to all truck and trailer unit operators to be adhered to at all times during bulk importing operations.

[34] In preparing the Section 42A Report, Ms Southworth identified additional amendments to the conditions, in order to record the additional information provided with the Section 127 of the RMA application, provision for an updated Traffic and Noise Management Plan (TNMP) and additional mitigation works in terms of roadside signage and ongoing roadside vegetation clearance.<sup>7</sup> Prior to the hearing Ms Southworth identified some errors in the amended conditions in the Section 42A Report as pre-circulated. Those amendments related to an error in the description of the activity itself in the original decision and that the amendments sought by the Applicant to condition 20 were not correctly identified. Those revisions to the conditions were distributed to the parties on 5 May 2021. Those combined recommended amendments were as follows (underline indicates text to be added and strikethrough indicates text to be deleted):

*In accordance with Section 104 and 104C of the Resource Management Act 1991, consent is granted to ~~construct a new dwelling within 1.5m of the southern side boundary~~ establish and operate a stock feed storage and distribution operation.*

*Subject to the following conditions imposed under Section 108 of the Resource Management Act 1991:*

1. *Except as to meet further conditions of this consent, the use and development of the site shall be as described within the application, except as varied by the section 127 application under LUC17/ 47070.01 and shall be substantially in accordance with the following information, plans and assessment of environmental effects submitted with the application LUC17/47070:*

- Resource Consent Application: prepared by BTW Company Ltd, titled 'Stock Feed Depot at 93 Manutahi Road, Bell Block' and dated 4 August 2017.*
- Traffic Impact Assessment prepared by BTW Company Ltd, titled 'Traffic Impact Assessment – 93 Manutahi Road' and dated 4 August 2017.*
- Noise Prediction Report prepared by Marshall Day Acoustics, titled 'Molasses Storage Facility: Noise Prediction, Doc Refer RP 001 20170407 and dated 31 May 2017.*
- Resource Consent Application Consent Variation prepared by BTW Company Ltd, titled 'Resource Consent Application and Assessment of Environmental Effects: Consent Variation - Stock Feed Depot at 93 Manutahi Road, Bell Block' and dated 23 September 2020.*

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<sup>7</sup> Section 42A Report, Ms C Southworth, dated 4 May 2021, Para 35



• The updated Traffic Impact Assessment prepared by BTW Company Ltd. titled 'Traffic Impact Assessment – 93 Manutahi Road' and dated 20th May 2020.

• The additional information received as further information dated 5 January 2021.

20. A Traffic and Noise Management Plan (TNMP) shall be submitted to the Council's Monitoring Officer for approval within ten working days of the s.127 application being granted ~~a minimum of one month prior to the commencement of the stock feed distribution activity on the site.~~ The purpose of the TNMP is to set out how the activity will be managed during bulk importing operations to mitigate adverse noise and traffic safety and efficiency effects from truck and trailer units associated with the stock feed distribution facility. The TNMP is to include, but not be limited to the following:

a) Route definition:

- i. Designated primary route requiring all heavy vehicles to turn left in and ~~left out of~~ to the site only (outside of peak traffic periods). There is no restrictions with respect to vehicles exiting the property (i.e. they may exit via a left turn or right turn);
- ii. Designated secondary route enabling heavy vehicles to approach the site from either the east or west along Manutahi Road (during peak traffic periods only) ~~but still being restricted to exit the site via left turn only;~~

b) Driver Education:

- i. No engine braking when approaching the site vehicle access point and avoiding noisy acceleration and braking on and off the site;
  - ii. Speed limits: Heavy vehicle speed limit of 20km/h at all times on the site (to include the use of the shared right of way);
  - iii. Dipped headlights only to be used during night-time hours on the site (to include use of the shared right of way);
  - iv. Management of night-time noise on the site to include no slamming of vehicle gates/doors and driver noise education.
- c) Notification protocols for neighbours in advance of bulk import operations.

22 *The consent holder shall provide a copy of ~~the~~ an updated approved TNMP to all truck and trailer unit operators to be adhered to at all times during bulk importing operations.*

23 *Heavy vehicles shall not exit the site via a right turn until the following mitigation measures are in place to the satisfaction of the Planning Lead, New Plymouth District Council:*

*Roadside Signage:*

*(a) Permanent roadside signage is erected on the approaches to the existing vehicle access, in the locations agreed to with Councils engineering officer, and to the satisfaction of Council.*

*(b) The signage shall be in accordance with the recommendations of the traffic assessment prepared by AMTANZ, dated 4th May 2021 and shall comprise of two permanent 'Trucks Crossing' signs (of PW50 and amended TW2-7 design as specified in the Manual of Traffic Signs and Markings).*

*(c) The roadside signage shall be manufactured by a council approved supplier and erected in accordance with council standards by a council approved contractor. The signs shall be vested in Council.*

*Roadside Vegetation:*

*(d) Vegetation clearance works are undertaken by a council approved contractor to maximise sight lines either side of the existing vehicle access. The vegetation on the inside of the corner to the ~~south west~~ east of the access shall be trimmed back to the legal boundary and to a maximum height of 6m.*

[35] Mr Edwards for the Applicant clarified the amendments in evidence and also noted that condition 23 d) should refer to "vegetation on the inside of the corner to the **east of the access** ..." as per Mr Skerrett's report and not the south.<sup>8</sup> At the commencement of the hearing, the amendments as set out above, were the recommendation of the reporting officer and confirmed by Mr Edwards. In response to my questions, Ms Southworth and Mr Edwards confirmed the conditions as I have set out above were within the scope of the application.

## ACTIVITY STATUS

[36] It was common ground that the application was for amendments to the conditions of an existing resource consent and as such was an application under Section 127 of

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<sup>8</sup> Evidence in Chief (EIC), Mr A Edwards, dated 12 May 2021, Paras 8 – 9.

the RMA with an activity status of a discretionary activity.<sup>9</sup> I heard no evidence to the contrary so accept that assessment.

## **STATUTORY PROVISIONS**

[37] As per Section 127 of the RMA, this application falls to be considered as a discretionary activity under Part 2 and Sections 104 and 104B, of the RMA. However, it is important to note that section 127(3) states that;

*Sections 88 to 121 apply, with all necessary modifications, as if—*

*(a) the application were an application for a resource consent for a discretionary activity; and*

*(b) the references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.*

[38] Ms Southworth opined that it was appropriate to consider this application as a change of existing conditions rather than a new application because the intent and scope of the activities remains the same.<sup>10</sup> In response to my questions Mr Edward's agreed with Ms Southworth's assessment. Hearing nothing to the contrary, I have adopted that approach.

## **PRINCIPAL ISSUES IN CONTENTION**

[39] The principal issues in contention, as I have determined them, are in relation to transport effects. I address these issues in the following section.

### **Transportation Effects**

[40] The submissions of Mr Candy (53 Manutahi Road) and Mr Hareb (95A Manutahi Road) raised concerns as to traffic safety and roading effects which are in summary;

- Trucks started going back along Henwood – Manutahi Road last year, in violation of the existing resource consent.
- The posted speed limit of Manutahi Road remains 100km/hr;
- Manutahi Road is a busy road and near misses have been observed when trucks exit or enter the driveway when turning right. Vehicles have been observed having to slow down, swerve or brake hard when a truck exits from the right.
- There have been near misses on the shared right of way / driveway, with trucks carrying molasses sitting in the middle of the drive to turn onto Manutahi Road. A change to the traffic route may exacerbate this safety issue.

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<sup>9</sup> Section 42A Report, Ms C Southworth, dated 4 May 2021, Paras 48-53

<sup>10</sup> Section 42A Report, Ms C Southworth, dated 4 May 2021, Para 52

- Trucks require momentum to achieve speed onto a 100km/hr road. A truck turning right onto a 100km/hr road is potentially extremely hazardous. Travelling speeds combined with human error and/or poor judgement could result in serious accidents.<sup>11</sup>

[41] At the hearing Mr Hareb who runs an excavation company from 95A Manutahi Road, expanded on his submission and responded to my questions, noting, in summary, instances of trucks entering the shared driveway and cutting the corner<sup>12</sup>, two occasions of spills from trucks in 2019 and 2020, dangerous intersection with near misses, vehicles in and out at same time problematic for large trucks, slowness of trucks getting to speed on departure and the road is getting busier with more houses planned. Mr Hareb gave an example of a car versus truck accident at the intersection, and although noting that the vehicle involved was not a Winton Stock Feed truck. Finally, Mr Hareb suggested that a centreline be painted on the shared driveway near the intersection with Manutahi Road, to assist with vehicles keeping to the correct side of the driveway.

[42] Expert evidence in the form of a report from Mr Skerrett consultant traffic engineer to NPDC was attached to the Section 42A Report as Appendix B. The statement of evidence from Mr Steele on behalf of the Applicant, was very brief, referencing the Traffic Impact Assessment dated 20 May 2020 that accompanied the application and a statement that Mr Steele agreed with the outcomes contained in Mr Skerrett's report and recording agreement with the proposed conditions also contained in that report.<sup>13</sup> I record that the brevity of Mr Steele's evidence resulted in me questioning Mr Steele for some time in order to understand the issues.

[43] Mr Skerrett's report was helpful in distilling the issues as to the traffic effects. I summarise the main points of Mr Skerrett's assessment as follows;

- The proposed change to a right hand turn out of the site changes the risk profile of the manoeuvre.
- The visibility requirements of 250m in each direction of the both the ODP and PDP are met.
- The sight distances provide more than the minimum safe stopping distance for cars travelling at 100kmph which is 175m in the wet.
- The shoulder opposite the access has been widened to meet NZTA Planning Policy Manual Diagram E which reduces crash risk.<sup>14</sup>

[44] Mr Skerrett further recommended two mitigation measures by way of proposed conditions to assist with visibility and to improve driver awareness as follows;

- Trimming back of vegetation to the legal boundary and to a height of 6m on the inside corner to the southwest [sic]<sup>15</sup> of the access

<sup>11</sup> Section 42A Report, Ms C Southworth, dated 4 May 2021, Para 87 – Table 6

<sup>12</sup> Mr M Hareb, Photograph handed up at hearing on 27 May 2021

<sup>13</sup> EIC, Mr I Steele, dated 12 May 2021, Para 4.3

<sup>14</sup> Section 42A Report, Appendix B, Mr A Skerrett Report, Page 6

<sup>15</sup> Location later clarified as being to the east of the access

- Installation of signage warning as to high truck movements and trucks crossing PW50 and TW2-7 of the Manual of Traffic Signs and Markings.<sup>16</sup>

- [45] In conclusion, Mr Skerrett’s view was “... *given the available sight distance, seal widening opposite the access and the proposed installation of signage keeps the change in risk at acceptable levels.*”<sup>17</sup>
- [46] Updated crash record information since the preparation of the initial application was tabled and I questioned Mr Skerrett and Mr Steele on the matters raised by the submitters. The traffic experts remained of the view that the proposal, with the mitigation measures recommended was acceptable from a traffic safety perspective.
- [47] I record that in reply, the Applicant noting Hareb’s suggestion as to the provision of a painted centreline on the shared driveway near the access point to Manutahi Road, offered to undertake that marking if deemed meritorious by myself.<sup>18</sup> I find that measure appropriate and have included a condition, noting that this was offered by the Applicant, to that effect.
- [48] Having considered all the evidence on this matter, I find, relying on the expert evidence of Mr Steele and Mr Skerrett, and with the imposition of the recommended and offered conditions that the proposal to be acceptable in relation to traffic effects and the impact on the surrounding traffic network.

#### **Other effects**

- [49] As addressed in paragraphs 5 - 6 above, I have not found that the proposal results in any amenity effects in relation to noise, lighting or landscaping beyond that already addressed in the original application and decision. As such I have not addressed these matters further.

#### **Section 104 RMA**

- [50] Section 104 (1) of the RMA requires that a consent authority:
- (1) *When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—*
- (a) *any actual and potential effects on the environment of allowing the activity;*  
and
- (b) *any relevant provisions of—*
- (i) *a national environmental standard;*
  - (ii) *other regulations;*
  - (iii) *a national policy statement;*
  - (iv) *a New Zealand coastal policy statement;*
  - (v) *a regional policy statement or proposed regional policy statement;*
  - (vi) *a plan or proposed plan, and*

<sup>16</sup> Section 42A Report, Appendix B, Mr A Skerrett Report, Page 7

<sup>17</sup> Section 42A Report, Appendix B, Mr A Skerrett Report, Page 7

<sup>18</sup> Reply Statement, dated 9 June 2021, Para 2.2

(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

[51] I have discussed the significance of any actual or potential effects on the environment of allowing the activity in the above sections and turn now to the statutory provisions requirement of Section 104(1)(b).

### **National instruments**

[52] Ms Southworth identified the National Environment Standard for Assessing and Managing Contaminants in Soil to protect Human Health (NESCS) as potentially relevant to the application given the site is identified as a 'hail site' on the Taranaki Regional Council Register of Selected Land Uses (RSLU). However, the application does not seek changes to the scale of land use activities occurring on the site. Ms Southworth concluded that the application was permitted under the NESCS.<sup>19</sup> I heard no expert evidence to the contrary, so I accept Ms Southworth's evidence.

### **Taranaki Regional Policy Statement ("the RPS")**

[53] Ms Southworth's<sup>20</sup> view was that the proposal was consistent with the RPS in that the proposed change to the designated traffic route would not affect the existing consented land use activities or impact of on existing amenity values. Mr Edwards generally concurred with that assessment.<sup>21</sup>

[54] I have already reached a finding as to scope above in relation to consideration of amenity effects, so do not repeat it here. Relying on the evidence of Ms Southworth and Mr Edwards I find that that the proposal is consistent with provisions of the RPS.

### **Operative New Plymouth District Plan (ODP)**

[55] Ms Southworth identified the following provisions of the OPD as relevant to the application<sup>22</sup>:

- Objective 1, Policy 1.1
- Objective 4, Policy 4.8
- Objective 20, Policy 20.3

[56] Mr Edwards was in general agreement with that assessment.<sup>23</sup> For completeness I record the identified provisions relating to transportation which are;

Objective 20 *To ensure that the road transportation network will be able to operate safely and efficiently.*

Policy 20.3 *Potential conflict between VEHICLES, pedestrians and cyclists moving on the ROAD TRANSPORTATION NETWORK should be minimised to protect the safety and efficiency of ROAD and footpath users.*

<sup>19</sup> Section 42A Report, Ms C Southworth, dated 4 May 2021, Para 121

<sup>20</sup> Section 42A Report, Ms C Southworth, dated 4 May 2021, Para 120

<sup>21</sup> EIC, Mr A Edwards, dated 12 May 2021, Para 18

<sup>22</sup> Section 42A Report, Ms C Southworth, dated 4 May 2021, Paras 102 – 88 (noting incorrect numbering)

<sup>23</sup> EIC, Mr A Edwards, dated 12 May 2021, Para 18

- [57] Ms Southworth, relying on the evidence of Mr Skerrett as to the installation of road safety signage to mitigate potential conflicts between vehicles turning left into and right out of the site, considered that the application was consistent with this specific objective and policy.<sup>24</sup>
- [58] Similarly, Ms Southworth identified the assessment criteria for Rules Rur 101 and Rur 102 and relying on the evidence of Mr Skerrett considered that the proposal complied with those assessment criteria.<sup>25</sup>
- [59] In considering that evidence, I accept the views of Ms Southworth and Mr Edwards that the proposal is consistent with the policy direction and assessment criteria of the ODP.

### **Proposed New Plymouth District Plan (PDP)**

- [60] Ms Southworth identified the following provisions of the PDP as relevant to the proposal:

- Objectives RPROZ-03, RPROZ-04, RPROZ-05, RPROZ-06 and RPROZ-07 and Policies RPROZ-P01, RPROZ-P03, RPROZ-P4, RPROZ-P06, RPROZ-P07, regarding the Rural Production Zone; and
- Objectives TRAN-O3 and TRAN-O4 and Policies TRAN-P17, TRAN-P18 and TRAN-P19 regarding Transport.<sup>26</sup>

- [61] As with objectives and policies in the ODP, Ms Southworth's view, in summary, was that the proposal was consistent with the relevant PDP provisions, noting that in relation to the transport provisions;

*Consultant Traffic Engineer has reviewed the proposal and is satisfied that the changes to the access arrangements will not adversely impact upon the safety and efficiency of the adjacent transport corridor. The proposal is therefore consistent with the applicable transport related objectives and policies.<sup>27</sup>*

- [62] Mr Edwards concurred with Ms Southworth's assessment.<sup>28</sup>

- [63] I heard no evidence to the contrary. Relying on the reasoning set out in the evidence of Ms Southworth I find that the proposal is consistent with objectives and policies of the PDP.

### Summary Operative and Proposed District Plans

- [64] Having considered all the evidence as to ODP and PDP I find that, overall, the proposal is consistent with the relevant objectives and policies of the Plans.

### **Conditions s108 and S108AA**

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<sup>24</sup> Section 42A Report, Ms C Southworth, dated 4 May 2021, Para 88

<sup>25</sup> Section 42A Report, Ms C Southworth, dated 4 May 2021, Paras 107-109

<sup>26</sup> Section 42A Report, Ms C Southworth, dated 4 May 2021, Para 113

<sup>27</sup> Section 42A Report, Ms C Southworth, dated 4 May 2021, Para 116

<sup>28</sup> EIC, Mr A Edwards, dated 12 May 2021, Para 18

- [65] As I identified in paragraphs 34 and 35 above, I set out the conditions as recommended by Ms Southworth and Mr Edwards in relation to the proposal. I also recorded that the Applicant agreed to those conditions.
- [66] At the hearing I questioned Ms Southworth and Mr Edwards as to the recommended conditions in relation to the management plans noting that there was generally accepted practice as to the formulation of such conditions, including;
- there is a requirement to prepare it;
  - it is to be prepared by a suitably qualified person;
  - the plan must have an objective, a stated scope together and performance management requirements that have been distilled from the evidence, joint witness statements and related material;
  - a process for certification is specified;
  - a process for amending the plan is specified; and
  - there is a requirement to comply with the management plan once certified.
- [67] In addition, I questioned the planning witnesses as to inclusion in Condition 1 as to the material presented at the hearing itself and numbering sequencing of the conditions.
- [68] As requested in Minute #2, Ms Southworth and Mr Edward conferenced on these matters and helpfully provided draft recommended conditions<sup>29</sup> that were distributed to the parties for comment. Having reviewed the conditions presented, I find the conditions to generally be appropriate having considered the effects and my findings above.
- [69] I have made further minor amendments to the conditions to give effect to the above.

## **PART 2 – RMA**

- [70] This application is to be considered under Section 104 of the RMA, which sets out the matters that consent authorities shall have regard to when considering resource consent applications.
- [71] In the decision (RJ Davidson Family Trust v Marlborough District Council [2018] NZCA 316, the Court of Appeal reconfirmed the pre-eminence of Part 2 matters in the consideration of resource consents. The Court however found that in those instances where it is clear that a planning document has been competently prepared having regard to Part 2 and contains a coherent set of policies leading toward clear environmental outcomes, consideration of Part 2 is unlikely to assist evaluation of a proposal. Conversely, where a plan has not been prepared in a manner which appropriately reflects Part 2, or the objectives and policies are pulling in different directions, consideration of Part 2 is both appropriate and necessary.
- [72] None of the parties drew my attention to any Part 2 matters. Considering that the planners agreed as to the proposals consistency with the policy direction of both the ODP and the PDP, in this case I find that there is no inherent conflict, invalidity,

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<sup>29</sup> Joint Witness Statement, Ms C Southworth and Mr A Edwards, dated 31 May 2021



incompleteness or uncertainty, and accordingly further analysis under Part 2 is not required.

### Conclusion and Decision

[73] Acting under delegated authority pursuant to Section 34A, and Sections 104, 104B, and 127 of the Resource Management Act 1991, the application by Winton Stock Feed Limited to vary conditions of consent for a stock feed depot at 93 Manutahi Road, Bell Block, New Plymouth (LUC17/47070.01), is **granted**.

[74] This decision is made for the reasons discussed throughout and, in summary, because:

- The activity that is **granted** is consistent with the purpose and principles of the Resource Management Act 1991;
- The activity that is **granted** is consistent with the provisions of the operative and proposed New Plymouth District Plan; and
- The activity that is **granted** is unlikely to have adverse effects on the environment.

[75] The consent conditions attached as **Appendix 2** are imposed.

DATED this 29<sup>th</sup> day of June 2021



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Mark St.Clair (Independent Commissioner)

Appendix 1 – Minutes

Appendix 2 – Conditions

**Directions/Minute of the Commissioner #1  
LUC17/47070.1**

**Application to vary conditions of consent for Stock Feed Depot at 93 Manutahi Road, Bell Block, New Plymouth.**

Pursuant to section 34A of the Resource Management Act 1991 (RMA), independent commissioner Mark St.Clair has been appointed by New Plymouth District Council (NPDC) to hear and determine the application lodged by Winton Stock Feed Limited (the Applicant) to vary the conditions of resource consent LUC17/47070, to establish and operate a stock feed storage and distribution operation at Lot 1 DP 344340 – 93 Manutahi Road, Bell Block, New Plymouth.

The hearing is scheduled to commence at **10.00am Thursday 27 May 2021** at the New Plymouth District Council offices (NPDC), in the Plymouth Room, Ground Floor, 84 Liardet Street, New Plymouth. At this stage the hearing is scheduled for one day. NPDC will separately issue a formal hearing notice to the parties.

The Commissioner notes that section 103B, requires that a consent authority must provide the section 42A reports to the applicant and submitters who wish to be heard, at least 15 working days prior to the hearing. In addition, section 103B requires the applicant to provide the consent authority with briefs of evidence 10 working days before the hearing, and for submitters calling expert evidence to similarly provide that evidence 5 working days before the hearing. The Commissioner further notes that the consent authority must give written or electronic notice to the parties, that the applicant's evidence and any submitter expert evidence is available at the consent authority's offices. In relation to his last matter, I request that NPDC email the parties with a link to the Council's website of any material filed.

Accordingly:

1. Pursuant to section 103B(2) of the RMA, the Commissioner directs that the NPDC section 42A report be provided to the parties, by way of email with a link to the Council's website, no later than **3pm on Wednesday 5 May 2021**.
2. Pursuant to section 103B(3) of the RMA, the Commissioner directs that the Applicant is to provide written briefs of all their evidence to Julie Straka ([julie.straka@npdc.govt.nz](mailto:julie.straka@npdc.govt.nz)), Hearings' Administrator at NPDC, by way of email, no later than **3pm on Wednesday 12 May 2021**.
3. The Commissioner requests that as soon as practicable following receipt of any such evidence received pursuant to Direction 2, NPDC provides a copy to all other parties to these proceedings by way of email with a link to the Council's website.
4. Pursuant to section 103B(4) of the RMA, the Commissioner directs that if any person who has made a submission intends to present expert evidence at the hearing, including expert planning evidence, then that party is to provide a written brief of that expert evidence to Julie Straka, Hearings' Administrator at NPDC, by way of email, no later than **3pm on Wednesday 19 May 2021**.
5. The Commissioner requests that as soon as practicable following receipt of any such evidence received pursuant to Direction 4, NPDC provides a copy to all other parties to these proceedings by way of email with a link to the Council's website.
6. In terms of Directions 1, 2 and 4 the reports and evidence should be provided to NPDC electronically by email. Hard copies of the evidence should only be provided on request.
7. Pursuant to s41C(1) of the RMA, the Commissioner directs that in respect of expert evidence pre-circulated in accordance with these Directions, the hearing will be conducted in the following manner:
  - The section 42A report(s) will be taken as read;

- The applicant that has provided the pre-circulated evidence is to call the witness in person;
  - The witness should be introduced and asked to confirm his or her qualifications and experience;
  - The witness should be asked to confirm the matters of fact and opinion contained in the brief of evidence;
  - The witness will then be given an opportunity to draw to the attention of the Commissioner the key points in the brief. No new evidence shall be introduced, unless it is specifically in response to matters raised in other pre-circulated briefs of evidence supplied by another party – in such cases the new evidence shall be presented in written form as an Addendum to the primary brief of evidence and it may be verbally presented by the witness. If there is any variation between what the witness says and what is in the brief of evidence, the Commissioner will assume that the written brief is the evidence unless the content of the brief is specifically amended by the witness;
  - The witness may then be questioned by the Commissioner.
8. Non-expert evidence (including legal submissions) should be tabled and read aloud on the day that the relevant party appears at the hearing.
9. The hearing will be conducted in a manner which is appropriate and fair, but without unnecessary formality. Subject to adequate notice, the Commissioner will receive written or spoken evidence in Te Reo Māori. If any party wishes to present evidence in Te Reo Māori, they are requested to Julie Straka, Hearings' Administrator at NPDC, no later than **3pm on Monday 10 May 2021**.
10. The Commissioner also requests that all parties (the NPDC reporting officer, Winton Stock Feed Limited as the applicant, and any of the submitters) calling expert witnesses liaise amongst themselves in order to facilitate their respective experts conferencing on matters relevant to their specific areas of expertise prior to the preparation of their reports or evidence (including any applicable conditions of consent) and through to the commencement of the hearing. The aim of the conferencing should be to identify areas of agreement and disagreement which can then be noted in the reports and evidence (Environment Court Practice Note 2014, Appendix 3). The Commissioner will attempt to focus on the issues of contention during the hearing and in deliberations thereafter and so the assistance of the parties to clearly identify areas of expert agreement and disagreement in this manner will be greatly appreciated.
11. Any correspondence to the Commissioner should be directed through Julie Straka Hearings' Administrator at NPDC. [julie.straka@npdc.govt.nz](mailto:julie.straka@npdc.govt.nz)



Mark St.Clair  
**Independent Commissioner - Chair**

**Date 4 May 2021**

**Directions/Minute of the Commissioner #2**  
**LUC17/47070.1**

**Application to vary conditions of consent for Stock Feed Depot at 93 Manutahi Road, Bell Block, New Plymouth.**

1. The hearing commenced at 10.00am Thursday 27 May 2021. Having heard from the Applicant, the submitters and officers, I adjourned the hearing at 2.10pm. The purpose of the adjournment being to provide time for the planners to conference on conditions, the submitter in attendance the opportunity to provide any comment on the revised conditions and time for the Applicant's right of reply.
2. The information and timeframes that I set out verbally at the hearing are addressed in this minute below. As signalled at the hearing, I do propose to reconvene the hearing. As such the matters shall proceed "on the papers".
3. Returning to the matters of timetabling. The planners are to conference on the revised set of conditions as tabled by Ms Southworth at the hearings, as to;
  - a) inclusion of material tabled at the hearing being included in Condition 1;
  - b) Management Plans –
    - (i) approved or certified
    - (ii) prepared by suitably qualified person
    - (iii) requirement for compliance with latest certified management plan
    - (iv) standards should not be included in management plans but sit as separate objectives
    - (v) process for filing and re-certification
  - c) sequencing of conditions (numbering) should s128 condition be the last condition.
4. The Joint Witness Statement (JWS) from that conferencing session is to be provided to Julie Straka (julie.straka@npdc.govt.nz), Hearings' Administrator at NPDC, by way of email, no later than **3pm on Monday 31 May 2021**.
5. The Commissioner requests that as soon as practicable following receipt of the JWS received pursuant to Direction 4, NPDC provides a copy to all other parties to these proceedings by way of email with a link to the Council's website.
6. The submitters are invited to make any comments as to the revised conditions in the JWS. Any responses from the submitters are to be provided to Julie Straka (julie.straka@npdc.govt.nz), Hearings' Administrator at NPDC, by way of email, no later than **3pm on Friday 4 June 2021**.
7. The Commissioner requests that as soon as practicable following receipt of any comments received by submitters pursuant to Direction 6, NPDC provides a copy to all other parties to these proceedings by way of email with a link to the Council's website.
8. The Applicant is then to file its Right of Reply statement. As I pointed out at the hearing, this is an opportunity for the Applicant to respond to matters raised in the hearing, but not to introduce new evidence. The reply statement is to be provided to Julie Straka (julie.straka@npdc.govt.nz), Hearings' Administrator at NPDC, by way of email, no later than **3pm on Wednesday 9 June 2021**.
9. The Commissioner requests that as soon as practicable following receipt of the reply statement pursuant to Direction 8, NPDC provides a copy to all other parties to these proceedings by way of email with a link to the Council's website
10. Once I receive the reply statement, I will decide if I have all the information I require. Having determined that, I will then close the hearing by way of a minute. Again, as advised at the hearing on Thursday 27 May 2021, I do not propose to reconvene the hearing.

11. Any correspondence to the Commissioner should be directed through Julie Straka Hearings' Administrator at NPDC. [julie.straka@npdc.govt.nz](mailto:julie.straka@npdc.govt.nz)



Mark St.Clair  
**Independent Commissioner - Chair**

**Date 27 May 2021**

**Directions/Minute of the Commissioner #3**  
**LUC17/47070.1**

**Application to vary conditions of consent for Stock Feed Depot at 93 Manutahi Road, Bell Block, New Plymouth.**

1. As directed in Minute #2, the planners conferenced on a revised set of conditions which was duly distributed to the submitter for comment on **Monday 31 May 2021**.
2. I was advised by the Hearings' Administrator that no comments on the revised conditions were received from the submitter within the timeframe set out in Minute #2.
3. The Applicant's Reply statement was filed on **Wednesday 9 June 2021** and a copy duly distributed to the parties.
4. Having reviewed the revised conditions and the reply statement, I consider that I have all the information I require. I therefore close the hearing at today's date, **Friday 11 June 2021**. I will now proceed to deliberations and preparation of the decision. I anticipate that the decision report will be completed and sent to Council for distribution to the parties on or before **Monday 5 July 2021**.
5. Any correspondence to the Commissioner should be directed through Julie Straka Hearings' Administrator at NPDC. [julie.straka@npdc.govt.nz](mailto:julie.straka@npdc.govt.nz)



Mark St.Clair  
**Independent Commissioner - Chair**

**Date 11 June 2021**

## RESOURCE CONSENT CONDITIONS FOR LUC17/47070/1

In accordance with Sections 104, 104C and 127 of the Resource Management Act 1991, consent is granted to establish and operate a stock feed storage and distribution operation.

Subject to the following conditions imposed under Sections 108 and 108AA of the Resource Management Act 1991:

1. Except as to meet further conditions of this consent, the use and development of the site shall be as described within the application except as varied by the section 127 application under LUC17/47070/01 and shall be substantially in accordance with the following information, plans and assessment of environmental effects submitted with the application LUC17/47070:
  - Resource Consent Application: prepared by BTW Company Ltd, titled 'Stock Feed Depot at 93 Manutahi Road, Bell Block' and dated 4 August 2017.
  - Traffic Impact Assessment prepared by BTW Company Ltd, titled 'Traffic Impact Assessment - 93 Manutahi Road' and dated 4 August 2017.
  - Noise Prediction Report prepared by Marshall Day Acoustics, titled 'Molasses Storage Facility: Noise Prediction, Doc Ref RP 001 20170407 and dated 31 May 2017.
  - Resource Consent Application Consent Variation prepared by BTW Company Ltd, titled 'Resource Consent Application and Assessment of Environmental Effects: Consent Variation - Stock Feed Depot at 93 Manutahi Road, Bell Block' and dated 23 September 2020.
  - The updated Traffic Impact Assessment prepared by BTW Company Ltd, titled 'Traffic Impact Assessment – 93 Manutahi Road' and dated 20 May 2020.
  - The additional information received as further information dated 5 January 2021.
  - The evidence and additional information submitted as part of the Hearing held on 27 May 2021.
2. The Consent Holder shall advise the Council's Planning Lead, or nominee, at least ten (10) working days prior to the activity commencing on the site.

3. Landscaping and screening shall be established and maintained in accordance with the plan endorsed by LUCI 7/47070, entitled 'Landscaping and Screening Plan' prepared by BTW Company Ltd, job number 17363 and dated 15 November 2017.
4. The landscaping required by Condition 3 of this consent shall be implemented within the first planting season following the construction of the storage pond.
5. The horticultural screening required by Condition 3 shall be erected prior to the commencement of bulk importing activity on the site.
6. On completion of landscaping and screening, the Consent Holder shall certify that these works have been completed and provide this certification to the Council's Planning Lead.
7. For the duration of this consent, the Consent Holder shall maintain all planting in a good and healthy condition at a minimum height of 3m. Any planting not in a good and healthy condition shall be replaced so as to be in accordance with the Landscape and Screening Plan referenced in Condition 3 of this consent.
8. The storage pond shall be set back a minimum of 10m from the side boundary adjoining 95 Manutahi Road (Lot 3 DP 344340).
9. Water sprinklers shall be installed and made operational prior to the commencement of the stock feed distribution facility on the site. Sprinklers shall be installed so as to provide coverage of all non-sealed access areas on the site over which truck and trailer units associated with the stock feed distribution facility traverse. Sprinkler use shall be undertaken as follows:
  - a. Sprinklers are to be in operation at all times during bulk importing operations (meaning in use as required to dampen access areas to suppress dust and not running continuously);
  - b. Sprinklers are to be used during normal operations as required to suppress dust generation from truck and trailer units associated with the stock feed distribution facility during dry and windy weather conditions; and
  - c. During normal operations, the Consent Holder shall actively



manage sprinkler use during dry and windy conditions to mitigate adverse dust nuisance effects on adjoining properties.

The purpose of the sprinklers is to mitigate adverse dust nuisance effects on adjoining properties by suppressing dust generation from truck and trailer units associated with the stock feed distribution facility traversing over non-sealed access areas on the subject site.

10. The two steel pipe gates located opposite the existing dwelling on 93 Manutahi Road are to be open at all times or removed.
11. No vehicles associated with the stock feed distribution activity shall park on the Right of Way.
12. The existing access shall be upgraded to a 'Diagram E' type access way as per Appendix 5B of the NZTA Planning policy Manual incorporating road widening to the south side of Manutahi Road. All costs associated with the access upgrade shall be met by the Consent Holder.
13. An engineering plan and specification for the roading shall be submitted to and approved by the Council prior to the commencement of work.
14. All work shall be constructed under the supervision of a suitably qualified person who shall also certify that the work has been constructed to the approved Engineering Plan requirements.
15. An "As Built" Plan shall be provided.
16. A Council engineering plan approval shall apply at cost.
17. A schedule of assets vested in the Council shall be provided.
18. The Consent Holder shall maintain the ROW from the Manutahi Road entrance (including the widened entrance) to the end of the legal ROW including, without limitation, all maintenance or repair and costs of forming the ROW from curb to curb for the duration of the consent except where the damage has been directly caused by the neglect or misuse of the ROW by the owners or occupiers of the adjoining properties.

19. The Consent Holder shall prune any vegetation or branches protruding over the curb line of the ROW.
20. The Consent Holder shall establish and maintain a white painted centre-line on the ROW from Manutahi Road entrance (including the widened entrance) to the formed entrance to 97 Manutahi Road.
21. No less than ten working days of the Section 127 application LUC17/47070/01 being granted the Consent Holder shall provide a Traffic and Noise Management Plan (TNMP) to Council's Planning Lead, or nominee for certification, and:
  - a) The purpose of the TNMP is to set out how the activity will be managed during bulk importing operations to mitigate adverse noise and traffic safety and efficiency effects from truck and trailer units associated with the stock feed distribution facility, including vehicles turning into and out of Manutahi Road and travelling along the shared right of way; and
  - b) The TNMP shall be prepared by a suitably qualified person.
22. The TNMP as required by Condition 21 shall, as a minimum, include, but not be limited to the following:
  - a. Route definition:
    - i. Designated primary route requiring all heavy vehicles to turn left into the site only (outside of peak traffic periods). There is no restriction with respect to vehicles exiting the property (i.e. they may exit via a left turn or right turn on to Manutahi Road);
    - ii. Designated secondary route enabling heavy vehicles to approach the site from either the east or west along Manutahi Road (during peak traffic periods only). There is no restriction with respect to vehicles exiting the property (i.e. they may exit via a left turn or right turn on to Manutahi Road)
  - b. Driver Education:
    - i. No engine braking when approaching the site vehicle access point and avoiding noisy acceleration and braking on and off the site;
    - ii. Speed limits: Heavy vehicle speed limit of 20km/h at all times on the site (to include use of the shared right of way);
    - iii. Dipped headlights only to be used during night-time hours on

- the site (to include use of the shared right of way);
- iv. Management of night-time noise on the site to include no slamming of vehicle gates/doors and driver noise education.
- c. Notification protocols for neighbours in advance of bulk import operations.
23. The TNMP may be varied by the Consent Holder at any time. Any amendments thereto shall be in accordance with the conditions of this consent and shall be provided to Council's Planning Lead, or nominee for certification prior to replacing the previously approved TNMP.
24. Should certification for the TNMP be withheld, the Consent Holder shall submit a revised plan to Council's Planning Lead, or nominee, for certification as soon as is practicable. Should certification of the revised plan be again withheld then the Consent Holder shall engage a suitably qualified mutually acceptable independent person for resolution of the matters of dispute and his or her decision on those matters shall be final. The costs of dispute resolution shall be met by the Consent Holder.
25. Activities subject to the TNMP shall not commence until the TNMP has received certification.
26. The Consent Holder shall provide a copy of the most recently certified TNMP prepared and updated in accordance with Condition 21 to all truck and trailer unit operators to be complied with at all times during bulk importing operations.
27. Heavy vehicles shall not exit the site via a right turn until the following mitigation measures are in place as certified by Council's Planning Lead, or nominee:
- Roadside Signage:
- (a) Permanent roadside signage is erected on the approaches to the existing vehicle access, in the locations agreed to with Council's Engineering Officer.
  - (b) The signage shall be in accordance with the recommendations of the traffic assessment prepared by AMTANZ, dated 4 May 2021 and shall comprise of two permanent 'Trucks Crossing' signs (of PW50 and amended TW2-7 design as specified in the Manual of Traffic

Signs and Markings).

- (c) The roadside signage shall be manufactured by a council approved supplier and erected in accordance with council standards by a council approved contractor. The signs shall be vested in Council.

Roadside Vegetation:

- (d) Within six months of the Section 127 application LUC17/47070/01 being granted the Consent Holder shall arrange for vegetation clearance works are to be undertaken by a council approved contractor to maximise sight lines either side of the existing vehicle access. The vegetation on the inside of the corner to the south-east of the access shall be trimmed back to the legal boundary and to a maximum height of 6.0 metres.

28. The conditions of this consent may be reviewed by the Council in accordance with Section 128(1) of the Resource Management Act 1991 by serving notice within a period of three (3) months commencing on each anniversary of the date of notification being received under Condition 2 of this consent for any of the following purposes:
- i. In order to deal with any adverse effects on the environment which may arise from the exercise of this consent that were not foreseen at the granting of the consent. Such effects may include (but not limited to) the frequency of vehicles to, from and within the site and noise; or
  - ii. To deal with inaccuracies contained in the consent application that materially influenced the decision made on the application and is such that it is necessary to apply more appropriate conditions.

Advice notes:

1. Consent Lapse Date

This consent lapses on 22 December 2022 unless the consent is given effect to before that date; or unless an application is made before the expiry of that date/or the Council to grant an extension of time for establishment of the use. An application for an extension of time will be subject to the provisions of Section 125 of the Resource Management Act 1991.