

**BEFORE AN INDEPENDENT HEARING COMMISSIONER
AT NEW PLYMOUTH**

IN THE MATTER

of the Resource Management Act
1991 (the "RMA")

AND

IN THE MATTER

of an application by Popuanui
Chickens Limited for subdivision
and land use consent relating to
the land at 24 Te Arei Road West,
Sentry Hill, New Plymouth
(SUB21/47978 / LUC26/48992)
(the "**Application**")

**LEGAL SUBMISSIONS ON BEHALF
OF POPUANUI CHICKENS LIMITED (THE APPLICANT)**

Dated: 13 July 2026

Govett Quilliam
THE LAWYERS

Lauren Wallace
Phone: (06) 768 3700
Fax: (06) 768 3701
Private Bag 2013/DX NP90056
lauren.wallace@gqlaw.nz

MAY IT PLEASE THE COMMISSIONER:

1. Introduction

- 1.1 These submissions are made on behalf of Popuanui Chickens Limited, the Applicant. The Applicant seeks subdivision consent for a four-lot rural subdivision and associated land use consent to enable two new residential units to be established on proposed Lots 1 and 2 within 400 metres of the existing poultry farming activity on the balance lot.
- 1.2 The reporting planner recommends that consent be declined. The recommendation is not based on servicing, traffic, waterbody, natural hazard, highly productive land, notification, reverse sensitivity, precedent, or district plan integrity concerns. On those matters, the reporting planner either accepts that effects are acceptable, can be managed by conditions, or do not provide a basis for refusal.
- 1.3 The recommendation to decline turns on two principal issues. First, the reporting planner considers that the subdivision would erode rural character and spaciousness because the balance lot will not be 20 hectares and because the proposal would enable additional residential development in the Rural Production Zone of the New Plymouth Part Operative District Plan. Secondly, the reporting planner considers that future residents of Lots 1, 2 and 4 may experience unacceptable amenity effects from the existing poultry farm, notwithstanding that reverse sensitivity effects on the poultry operation itself can be appropriately managed.
- 1.4 The Applicant's case is that those concerns are overstated, lack evidentiary support, and do not justify refusal. The proposal is a discretionary activity because its activity status is preserved under s 88A of the Resource Management Act 1991 (**RMA**). It is not subject to the s 104D gateway test. The application must be assessed under s 104 and determined under s 104B, by reference to the actual proposal, the actual receiving environment, the expert evidence, and the conditions available to manage effects. After considering an application for a discretionary activity, a consent authority may grant or refuse consent, and may impose conditions if consent is granted.

- 1.5 The Applicant submits the correct outcome under s 104 is to grant consent, subject to appropriate conditions.

2. The applications and the site

- 2.1 The site is located at 24 Te Arei Road West, Sentry Hill. It comprises approximately 7.2 hectares and contains an established poultry farming activity, existing rural buildings, pastoral land, and an existing dwelling. The site adjoins the Waiongana Stream and sits within a wider rural environment that already includes rural production activities, rural lifestyle lots, residential units, roads, the railway corridor, shelterbelts, riparian vegetation, and existing dwellings in proximity to the poultry sheds.

- 2.2 The subdivision now before the Commissioner is reduced from the original proposal. It creates four lots in total, rather than the earlier five-lot arrangement. Proposed Lots 1 and 2 are vacant rural-residential lots. Proposed Lot 3 contains the poultry farming activity. Proposed Lot 4 contains the existing dwelling. A 10 metre esplanade strip with riparian planting is proposed alongside the Waiongana Stream. Building platforms, no-build and tree-height limit areas, new and improved site access arrangements, landscaping, and consent notices are proposed as part of the mitigation package.

- 2.3 The associated land use consent is sought because residential units on Lots 1 and 2 will be located within the 400 metre separation standard from an intensive indoor primary production structure. That non-compliance is the focus of the land use consent. The reporting planner accepts that if subdivision consent is granted, the land use consent is largely procedural in the sense that the allotments will then be lawfully created and the dwellings will be considered in that context.

3. Statutory considerations

- 3.1 The subdivision application was lodged in December 2021. At lodgement, the subdivision had discretionary activity status under the then Operative District Plan 2005. That status is preserved under s 88A of the RMA. The reporting planner accepts that the subdivision is to be determined as a discretionary

activity and that s 104D RMA does not apply. An application for discretionary activity by definition is one that may be granted.¹

- 3.2 Under s 104 and 104B RMA, the consent authority must have regard to any actual and potential effects on the environment, any relevant provisions of national environmental standards, national policy statements, regional policy statements, regional plans, district plans, proposed plans, and any other matter the consent authority considers relevant and reasonably necessary to determine the application.
- 3.3 Section 104(1) adopts an open-ended approach to the weight that is to be attached to the relevant matters and the directive “must have regard to” is not to be elevated to mean “must give effect to” or “must be consistent with”. Rather, “the requirement for the decision maker is to give genuine attention and thought to the matters set out in s 104, but they must not necessarily be accepted”.²
- 3.4 The land use consent is a restricted discretionary activity. It is tied to the subdivision because it authorises residential units on Lots 1 and 2 in relation to the intensive indoor primary production setback. The relevant matters of discretion in Effects Standard RPROZ-S2 relate to the effects of residential units within the relevant setback, but are not specific to poultry farms. They include the extent to which the reduction in the setback is necessary due to the shape or natural and physical features of the site, and the ability to mitigate adverse effects through the use of screening, planting, landscaping and alternative design.
- 3.5 Under s 108 RMA, a resource consent may be granted on any condition the consent authority considers appropriate, subject to the statutory constraints on conditions. Conditions may require works, services, planting, restoration, information, monitoring, and other measures to manage effects.
- 3.6 For subdivision consents, s 220 RMA expressly provides for subdivision-specific conditions, including conditions relating to esplanade strips, earthworks, easements, and title restrictions or covenants.

¹ *Auckland Council v High Quality Ltd* [2024] NZHC 2238

² *Foodstuffs (South Island) Ltd v Christchurch CC* [1999] NZRMA 481 (HC)

- 3.7 The Commissioner's task is therefore to determine whether, having regard to the relevant s 104 matters and the available conditions, the consent should be granted or refused.

4. The reporting planner's recommendation

- 4.1 The reporting planner's recommendation to decline is an important consideration, but it is not determinative. A s 42A report is intended to assist the decision maker. It does not bind the Commissioner. The reporting planner herself records that the Commissioner may reach different conclusions after considering all of the evidence.

- 4.2 The issues that remain in dispute are relatively confined. The reporting planner accepts, or effectively accepts, the following matters.

4.2.1 The subdivision remains a discretionary activity because activity status is preserved. The proposal is not required to pass through the s 104D gateways.

4.2.2 Traffic effects are acceptable and can be managed by conditions requiring appropriate vehicle crossings and related works.

4.2.3 Servicing effects are acceptable, subject to conditions addressing wastewater, stormwater, water supply, power supply, telecommunications and site suitability.

4.2.4 Effects on waterbodies are acceptable. The 10 metre esplanade strip, riparian planting, fencing, and separation of future development from the Waiongana Stream provide an enduring positive outcome.

4.2.5 There is no basis to refuse subdivision consent under s 106 RMA. There are no identified natural hazard reasons to decline consent, and sufficient legal and physical access can be provided.

4.2.6 The proposal is consistent with the National Policy Statement for Highly Productive Land (**NPS-HPL**). The Council accepts that the relevant exemption pathway is met and that the proposal will not result in a meaningful loss of productive capacity.

- 4.2.7 Reverse sensitivity effects on the poultry operation itself can be managed. The proposed no-complaints covenants and consent notices protect the ongoing operation of the poultry farm.
- 4.2.8 The proposal does not give rise to a precedent or district plan integrity concern sufficient to justify refusal. The reporting planner accepts that the processing history and preserved activity status make the application unusual and not readily replicable.
- 4.3 The decline recommendation therefore derives from two issues: rural character and spaciousness, and alleged conflict or amenity effects for future residents near the poultry farm. Those are the issues these submissions principally address.
- 5. The correct legal approach to effects**
- 5.1 The Commissioner must assess whether, in the circumstances of this site, this operation, this receiving environment, and this mitigation package, the actual and potential effects are acceptable.
- 5.2 An assessment of effects must be grounded in the actual environment and in evidence, rather than in generalised assumptions about a class of activity. It is not enough to identify a generic risk associated with a type of activity, or to infer unacceptable effects merely because a setback is not met. The 400 metre setback is relevant³. It signals that the plan anticipates potential effects when new sensitive activities are located near intensive indoor primary production structures. But it is not an absolute prohibition. Non-compliance with the setback gives rise to a consent requirement. It does not dictate refusal.
- 5.3 The Commissioner is entitled to prefer site-specific evidence over generalised assumptions about potential effects. That proposition is particularly important here because the reporting planner's addendum relies heavily on the rationale for the 400 metre setback and on general propositions about odour, noise, traffic, land use conflict, and reverse sensitivity. However, her concern is not supported by odour or acoustic expert evidence or complaints which show unacceptable

³ Note, in Appendix V of the Regional Air Quality Plan for Taranaki the recommended buffer distance between a dwelling house and a poultry farm with 30,000 – 59,999 birds is 200m.

effects from this poultry farm; it is principally an inference from the existence of the 400 metre setback and the general rationale for separation.

- 5.4 The Applicant's evidence directly answers that inference by reference to the actual operation, its reduced intensity compared with a broiler operation, the existing nearby residential receptors and complete absence of complaints, the prevailing winds, the regulatory controls under the air discharge permit, proposed acoustic insulation, landscaping, no-complaints covenants, and title-based controls.

6. Landscape, visual and rural character effects

- 6.1 The first major issue is whether the subdivision would produce unacceptable landscape, visual and rural character effects, and result in a "*perceived reduction in openness and spaciousness within the landscape as there is no 20ha balance*"⁴.
- 6.2 The Applicant accepts that the proposal will change the site. Every subdivision changes a site. However, having regard to the relevant planning provisions, the existing environment, and proposed mitigation, it is submitted that the change will not result in adverse effects that are unacceptable.

Weight to be given to landscape and visual assessment and peer review

- 6.3 The reporting planner expresses concern that the applicant's landscape and visual assessment (**LVA**) and the Council's peer review were prepared in the context of the previous plan framework. That concern should not be elevated beyond its proper significance.
- 6.4 The LVA and peer review remain relevant technical evidence. They assessed the physical environment, the visual catchment, the nature of the proposed development, and the mitigation measures. The physical landscape has not changed in a way that invalidates that assessment. The proposal has reduced in scale since the earlier assessment. Mitigation designed for a larger proposal remains available for the smaller proposal now before the Commissioner.

⁴ Section 42A Report, at para 9.16

- 6.5 The reporting planner's concern is therefore primarily a planning interpretation concern, not a technical landscape concern. The technical experts were generally aligned that the wider landscape effects would be low with mitigation, and their views did have regard to the Proposed District Plan's objectives and policies (which are substantially similar to the Part Operative District Plan's provisions).
- 6.6 There is no contrary landscape evidence demonstrating that the proposal would produce unacceptable landscape or visual effects.

Landscape, visual effects and rural character effects

- 6.7 With respect to the specific effects, the site and its surrounds do not comprise an untouched, expansive rural landscape. The site comprises 7.2 hectares and already contains four poultry sheds, an existing dwelling, supporting rural buildings, accessways, shelterbelts, and infrastructure. The expert landscape evidence is that in the context of this specific existing environment the adverse rural character and landscape effects will be low.
- 6.8 Ms Dravitzki's Landscape and Visual Assessment (**LVIA**) stated: "*of note in this landscape is the relatively increased level of lifestyle living amongst the productive rural activities compared with more remote and less connected accessible locations where rural lifestyle living is not as common or desirable.*" And further that: "*the increased building density has become part of the character of this area. The vibrancy and population of this community has been enhanced over time allowing for increased services such as the Ruru day care centre on the corner of Te Arei Road West and Richmond Road, the school redevelopment; the successful poultry industry and large community events where there is active participation and a sense of local identity and belonging.*"
- 6.9 The Rural Production Zone itself contemplates a rural environment that includes not only open space and primary production, but also buildings, structures, rural industry, rural infrastructure, and interspersed sensitive activities.
- 6.10 The Applicant's planning evidence correctly identifies that the Part Operative District Plan does not say that all subdivision without a 20 hectare balance lot must be declined. Rather, it provides a planning framework within which subdivision proposals are assessed on their merits.

- 6.11 Ms Martin's planning evidence is that the proposal will retain rural character by maintaining substantial unbuilt space, retaining the poultry farming activity, enabling small-scale rural production activities on the lots, avoiding urban infrastructure, providing rural fencing and planting, locating buildings within defined platforms, imposing controls on building form and appearance, and maintaining spatial separation between building areas. Those are classic rural character controls.
- 6.12 In contrast, the reporting planner's states: *"I consider that the rural character and amenity effects on the wider environment would not be acceptable. This is because subdivision that does not involve a record of title over 20ha in area is unable to promote overall spaciousness through low density built form"*⁵. That reasoning is rigid and treats the plan's standard as determinative. However, it is neither supported by the evidence relating to this site nor is consistent with an effects-based assessment.
- 6.13 The allegation that the proposal would create an urban pattern of development is also not supported by the evidence. The lots are rural in scale. The smallest lot is over 5,000 square metres, exceeding the 4,000 square metre minimum lot size referred to in the planning evidence. The largest lot is over 4 hectares. There will be one residential unit per relevant lot. Buildings will be subject to controls. The proposal does not introduce urban roads, kerbs, footpaths, street lighting, reticulated wastewater, or other urban infrastructure.
- 6.14 It is submitted the better view is that the proposal creates a small rural subdivision in an already modified rural environment, while providing for low density built form and substantial ongoing primary productive use.
- 6.15 It is therefore submitted that the Commissioner can properly rely on the expert landscape evidence, together with Ms Martin's planning evidence, to find that landscape, visual effects and rural character effects are acceptable.

7. Poultry Farm effects on future residents

- 7.1 The second major issue is whether future residents of Lots 1 and 2⁶ will experience unacceptable amenity effects from the poultry farming activity.

⁵ Section 42A Report, at para 9.21

⁶ Noting that the residential use of Lot 4 is an existing use, which will continue whether or not the subdivision consent is granted.

- 7.2 The Applicant's case is that the evidence does not demonstrate that this poultry farm produces objectionable or unacceptable effects on nearby residents. To the contrary, the evidence demonstrates that the operation has coexisted with nearby residential activities for many years without complaint. The reporting planner confirms that the Council has not received any complaints about this poultry farm (at paragraph 31 of the addendum report).
- 7.3 Mr Curry has operated the farm since 2008. He lives on the site. The operation has changed from broiler farming to breeder rearing, which has materially reduced activity levels. There is generally no night-time activity associated with the current operation. In nearly 18 years of ownership, neither he nor Tegal has received complaints about noise, odour, traffic movements, or lighting from the poultry farm.
- 7.4 Ms Martin's evidence identifies existing sensitive receptors within comparable or closer distances to the poultry sheds, including residential units at 10 Te Arei Road West and 232 Richmond Road, which are at approximately 107 metres and 88 metres respectively from the poultry sheds. Those dwellings have existed in proximity to the poultry operation for many years without complaint. This is confirmed by Ms Anna Ryder who lives in close proximity to the poultry farm (see the **attached** letter).
- 7.5 That evidence is important because it comes from the people most familiar with the effects of the applicant's poultry farm.
- 7.6 The proposed dwellings on Lots 1 and 2 would be at approximately 82 metres and 162 metres from the nearest poultry shed.⁷ That is comparable to the existing receiving environment.
- 7.7 The reporting planner's addendum treats proximity as indicating likely unacceptable effects (at paragraph 4.8). But proximity alone is not sufficient. The relevant question is what effects this activity actually generates, how they are experienced in the receiving environment, and whether proposed conditions appropriately manage them. The evidence shows that effects are negligible, acceptable, or manageable.

⁷ The dwelling on Lot 4 is 125 m from the closest shed

7.8 In relation to the specific amenity effects identified by the reporting planner:

Odour

7.8.1 Odour appears to be one of the reporting planner's key concerns. The Applicant does not dispute that poultry farms can generate odour effects. But this farm is subject to an air discharge permit, best practicable option requirements, operational controls, and regional regulatory oversight. Ms Martin's evidence records that the air discharge permit includes limits and conditions addressing shed area, bird density, best practicable option requirements, operational practices, objectionable odour beyond the boundary, and dust.

7.8.2 The reporting planner has not produced odour expert evidence establishing that future residents are likely to experience offensive or objectionable odour. The Council's concern is inferential based on the fact that in the past 21 years, there has been less than 1 complaint per year about other undisclosed poultry farms in different locations. It also relies on general policy rationale and proximity.

7.8.3 The Applicant's evidence is more specific. Mr Curry has not experienced objectionable odour. Ms Martin observed no odour in the areas where Lots 1, 2 and 4 are proposed during her site visit, and only a minimal feed-related odour near the silos and ventilation system that she did not consider offensive or objectionable. Existing nearby residents have confirmed they have never experienced any odour issues.

7.8.4 On that evidence, odour effects do not justify refusal.

Noise

7.8.5 Noise is also relied on by the reporting planner. Again, the Applicant accepts that rural production activities can generate noise. But the evidence does not show unacceptable noise effects from this operation, nor that permitted noise limits are being exceeded.

- 7.8.6 Mr Curry's evidence is that there is generally no night-time activity associated with the current breeder rearing operation and that he rarely hears daytime noise. Ms Martin's site observations were that poultry-farm-specific noises were indiscernible from the areas near proposed Lots 1 and 2. Her evening visit identified no discernible noise from the poultry farm, with the main noise being from the State Highways. Existing nearby residents have confirmed they have never experienced any odour issues.
- 7.8.7 Further, the Applicant offers acoustic insulation for new dwellings or additions on Lots 1, 2 and 4. Ms Martin explains that this mitigation is robust and conservative, being based on a standard designed for significantly louder noise environments. That condition provides a significant margin of protection for future occupants.
- 7.8.8 The reporting planner's conclusion that noise effects cannot be mitigated is therefore not supported by the evidence. Noise effects are already low (and within the permitted limits) and will be further mitigated through acoustic insulation.

Traffic and Operational Activity

- 7.8.9 The s 42A report accepts that traffic safety and efficiency effects from the subdivision are acceptable subject to conditions. However, in terms of poultry farm traffic effects on the future residents, the current breeder rearing operation is materially less intensive than a broiler operation. The activities with the greatest potential to generate temporary noise or traffic effects occur infrequently.
- 7.8.10 Rural residents in the Rural Production Zone can reasonably expect cyclic rural activity, including movements associated with primary production. The plan description of rural character itself contemplates noises, smells, light, and traffic generated by primary production, often on a cyclic and seasonal basis. The question is not whether future residents may occasionally perceive rural production activity. The question is whether those effects are unacceptable.

7.8.11 There is no evidence to answer this question in the affirmative. Additionally, the new site entrance proposed for the poultry farm will improve the alignment and safety of that entranceway.

8. Reverse Sensitivity and Land Use Conflict

8.1 Reverse sensitivity concerns the risk that a new sensitive activity will complain about the effects of an existing lawfully established activity, which may result in the established activity being constrained or compromised. It is defined in the Part Operative District Plan as follows:

Reverse sensitivity means the vulnerability of a lawfully established activity to complaint from a new or altered activity which may be sensitive to the actual or potential effects of the established activity. As a result of that vulnerability, the established activity might be compromised, constrained or curtailed.

8.2 The reporting planner accepts that reverse sensitivity effects on the poultry operation can be managed through no-complaints covenants. The Applicant agrees.

8.3 The reporting planner's remaining concern is framed as land use conflict or amenity effects on future residents. But the same evidence that addresses amenity effects is also relevant to conflict. Conflict requires more than proximity. It requires a real risk that effects will be experienced in a way that causes incompatibility between uses. The actual operating history of the poultry farm shows that residential living and the poultry farm have coexisted without complaint, including at distances similar to or less than those proposed.

8.4 The proposed conditions further reduce the risk of conflict. They include acoustic insulation, no-complaints covenants, building platform controls, planting, no-build areas, and title-based notices. The future residents will purchase lots with full knowledge of the poultry operation and subject to instruments recording and managing that relationship.

8.5 In those circumstances, the proposal does not create an unacceptable conflict. It manages the interface between existing rural production and new rural-residential activity in a practical and enforceable way.

9. Objectives and policies

- 9.1 The reporting planner considers the proposal inconsistent with directive objectives and policies of the Rural Production Zone and Subdivision chapters, particularly provisions addressing rural character, low density built form, conflict, reverse sensitivity, and sensitive activities near rural production.
- 9.2 The Applicant's submission is that the reporting planner has applied those provisions too rigidly and has not given sufficient weight to their qualifying language and to the actual proposal.
- 9.3 Where the plan uses terms such as "avoid," the inquiry does not end with "the presence of a sensitive activity near primary production". The relevant provisions require an assessment of whether the activity is incompatible, whether it compromises the role, function or predominant character of the zone, whether conflict will arise, and whether effects can be avoided or mitigated through location, design, separation, landscaping, and other measures.
- 9.4 Ms Martin directly addresses those provisions. She concludes that the proposal is consistent with the relevant objectives and policies because primary production remains predominant on the balance lot, the new lots are rural in scale, built form remains low density, the proposal avoids urban infrastructure, future buildings are controlled, acoustic insulation is proposed, no-complaints covenants protect the poultry activity, and there is no evidential basis to conclude that conflict will occur.
- 9.5 It is submitted that the reporting planner's approach places disproportionate weight on the 20 hectare standard and 400 metre setback. Those standards are important, but they are not absolute bottom lines. The plan itself provides consent pathways for proposals that do not comply with them. In *Brial v Queenstown Lakes District Council* [2022] NZCA 206, the applicants attempted to argue on appeal that the subdivision proposal, which was the subject of the appeal, failed to comply with the minimum lot size in Policy 24.2.1.1 and that this should have led to the refusal of consent. The Court of Appeal held:

...we do not consider that to be seriously arguable as a proposition of law. Again, a subdivision such as that proposed was not a prohibited activity. We therefore do not consider that the minimum lot size established by Policy 24.2.1.1 can appropriately be regarded as an environmental bottom line. Obviously subdivisions can have

environmental effects. But if a council does not exercise its powers to prohibit activities, there is always the possibility that a particular proposal may merit consent when considered against the relevant statutory criteria.

- 9.6 On a fair and integrated reading, the overall thrust of the objectives and policies of the Plan are not contravened and the proposal is not contrary to the plan's core outcomes. It retains rural production, maintains low density built form, manages sensitive activity effects, protects waterbody margins, avoids urban infrastructure, and provides enforceable mitigation. Any inconsistency is limited and outweighed by the evidence that effects are acceptable.

10. Waterbodies, esplanade strip and positive effects

- 10.1 The proposal provides positive outcomes for the Waiongana Stream. A 10 metre esplanade strip and riparian planting are proposed, with fencing and enduring protection. The reporting planner accepts that effects on the waterbody are acceptable and that the esplanade strip will provide a buffer and secures environmental enhancement along the stream margin.

11. National Policy Statement for Highly Productive Land

- 11.1 The reporting planner accepts that the proposal is consistent with the **NPS-HPL**. Council's agribusiness advice confirms that the relevant exemption criteria are met. The site is constrained, physically isolated, already fragmented by surrounding features and land uses, and not suited to viable land-based primary production at the scale relevant to the NPS-HPL assessment. The poultry operation is retained.
- 11.2 That conclusion is important. It means refusal is not required to protect highly productive land. The proposal's limited loss of productive land is not a determinative adverse effect.

12. Conditions

- 12.1 The Applicant accepts that if consent is granted, robust conditions are appropriate. The Applicant has carefully considered and sought expert advice on an appropriate suite of conditions and mitigation measures. By way of summary, the following conditions are volunteered/accepted:

- a) **Residential density and built form controls:** Consent notices must be registered to limit residential development to one residential unit per relevant lot and to control building height, external colors and materials, lighting, and other built form matters necessary to maintain rural character.
- b) **Acoustic insulation:** Residential units on Lots 1 and 2, including relevant future additions on Lot 4, must be designed and constructed to meet stringent acoustic insulation requirements to mitigate rural production and other environmental noise.
- c) **No-complaints instruments:** No-complaints covenants, or equivalent consent notices to the extent lawfully available, must be registered against Lots 1, 2 and 4 to acknowledge the existing poultry operation and protect it from reverse sensitivity complaints.
- d) **Landscape planting:** Before titles are issued, or within any staged timeframe approved by Council, the consent holder must submit for certification and then implement a landscape planting plan addressing roadside planting, building platform planting, internal planting, and planting associated with the poultry farm interface.
- e) **Esplanade strip and riparian planting:** The 10 meter esplanade strip adjoining the Waiongana Stream must be shown on the Land Transfer Plan, legally secured, fenced where required, and planted in accordance with the approved riparian planting requirements.
- f) **Access and vehicle crossings:** Vehicle crossings, access formation, sightlines, and any required upgrades must be completed in accordance with Council engineering requirements before s 224(c) certification.
- g) **Earthworks and erosion control:** Any earthworks associated with access, servicing, the esplanade strip, or riparian works must be managed through erosion and sediment controls sufficient to avoid sediment discharge to the Waiongana Stream.

- h) **Review and monitoring:** The consent may include standard monitoring and certification conditions to ensure that the required planting, access, servicing, acoustic, and title instrument requirements are implemented and maintained.

13. Part 2

- 13.1 The reporting planner considers the Part Operative District Plan to be comprehensive and coherent, such that recourse to Part 2 is unnecessary. The Applicant agrees.
- 13.2 However, to the extent Part 2 is considered, the proposal promotes sustainable management. It enables the Applicant and future owners to provide for their social and economic wellbeing while sustaining the productive use of the poultry farm and safeguarding environmental bottom lines. It protects the Waiongana Stream margin through an esplanade strip and riparian planting. It manages adverse effects through conditions. It provides for rural living in a manner compatible with the rural environment.

14. Overall evaluation under section 104

- 14.1 The Commissioner's ultimate assessment under s 104 is evaluative.
- 14.2 The actual and potential adverse effects of this proposal are acceptable. Rural character and visual effects are low or appropriately mitigated. Servicing, traffic, waterbody, natural hazard, and HPL matters are all acceptable. Poultry farm amenity effects are not shown to be unacceptable and are addressed through existing regulation, operational reality, site history, acoustic insulation, covenants, planting, and title controls.
- 14.3 The relevant objectives and policies do not require refusal. They require protection of the Rural Production Zone's role, function and character, and management of conflict and reverse sensitivity. The proposal achieves those outcomes in a practical, site-specific way. It retains the poultry farm, retains rural production, avoids urbanisation, manages new residential activity, and enhances the stream margin.
- 14.4 Other matters also support grant or are neutral. The application's processing history is unusual. Precedent and plan integrity concerns do not arise in any

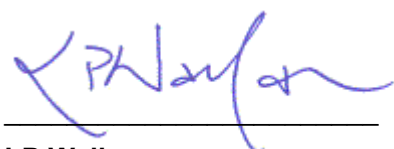
material way. The only submission on the application has been withdrawn. The proposal has been reduced and refined. The Applicant has volunteered substantial mitigation.

- 14.5 The reporting planner's recommendation to decline depends on a pessimistic assumption that future residents will experience unacceptable amenity effects because dwellings will be near the poultry farm. The evidence does not support that assumption. The actual history of this farm, the current reduced breeder rearing operation, the absence of complaints, the presence of existing dwellings at comparable distances, and the proposed conditions all point the other way.

15. Conclusion

- 15.1 For those reasons, the Applicant respectfully submits that the applications should be granted.
- 15.2 The proposal is not an attempt to urbanise rural land. It is a carefully controlled rural subdivision of a constrained and already modified site, retaining an established poultry farming activity, providing for limited rural-residential development, securing riparian protection, and managing the interface between rural production and sensitive activities through enforceable conditions.
- 15.3 The Commissioner can be satisfied that adverse effects are acceptable, that the proposal is sufficiently consistent with the relevant planning framework, and that any residual concerns can be addressed through conditions.
- 15.4 The Applicant therefore seeks that subdivision consent SUB21/47978 and land use consent LUC26/48992 be granted, subject to appropriate conditions.

Dated: 13 July 2026



LP Wallace

Counsel for the Applicant