Hearing Panel Decision

LUC24/4848583

Application by New Plymouth Pistol Club Inc

228 De Havilland Drive/1206 Devon Road (State Highway 3)

Introduction

1) New Plymouth Pistol Club Inc (**the applicant**) has applied for a resource consent authorising the continued operation of the New Plymouth Pistol Club (**the Club**) as a Sport and Recreation Activity in the General Industrial Zone of the part operative New Plymouth District Plan (**PODP**) at a site located at 1206 Devon Road, Bell Block.

2) The Club was established in 1964 and began operating on its current site around 1983. Prior to that, the site had been used as a firearms range for in excess of 100 years, most recently as a machine gun range associated with the then Airforce Base nearby.[1]

3) At its commencement, the Club had some 30 members and operated across three firing ranges.

4) Over time membership has expanded to now 149 members operating on eight outdoor ranges and one covered range.

5) In response to our query, the Club President, Mr MP O'Sullivan, told us that the expansion in the number of ranges was principally achieved by dividing up one large range into four narrower ranges rather than expanding the area on the site within which pistol firing occurred.

6) The application includes construction of new facilities (a new two storey building and a series of acoustic walls between and bounding shooting ranges) together with earthworks related to relocation of an existing bund along the eastern side of existing shooting range #1, and including disturbance of contaminated land.

7) The application recorded that it was retrospective in part. That aspect of the application is discussed in greater detail below.

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[1] EIC of MP O'Sullivan at 2.3.

8) New Plymouth District Council (**the Council**) has appointed Trevor Robinson, Mark St Clair and Darran Humpheson as Independent Commissioners to hear and determine the application.

Background

9) In recent years, noise emanating from the Club premises has been an issue. Following a number of complaints by the nearest residential neighbour, Mr Phillips, about excessive noise at his property (1222 Devon Road), the Council issued an Abatement Notice to the Club on 2 December 2022 in relation to shooting activity. In compliance with that notice, the Club restricted its hours of operation and applied for an existing use certificate in February 2023. That application was refused on 22 June 2023.

10) The Section 42A report recorded that the Officer's Report on that application had concluded that the facility was lawfully established around 1983 on the basis of having three ranges and approximately 30 members, but the applicant had not demonstrated that the use was lawfully established before relevant rules became operative and had not demonstrated that the effects of the use were the same or similar in character, intensity, and scale to those which existed before the rule became operative.

11) We note the acknowledgement in counsel for the applicant's opening submissions[2] that the Club does not hold existing use rights under the Resource Management Act 1991 (**RMA**) for the gun range activity.

12) The Club applied for resource consent in lieu of existing use rights in August 2024, and the Abatement Notice was formally cancelled on 15 October 2025.[3]

13) The Panel was advised that the Club had entered into an agreement with the Council permitting it to continue operation on reduced hours pending release of our decision or 31 July 2026, whichever comes first. Mr O'Sullivan supplied us with a copy of that agreement.

[2] Legal submissions for the New Plymouth Pistol Club Inc at paragraph 5.
[3] Ibid at paragraph 7.

14) In the interim, after further information was provided pursuant to Section 91 of the RMA on 6 and 17 December 2024 and 17 February 2025, the application was publicly notified on 24 May 2025.

15) Within the statutory timeframe, some 17 submissions were received. 15 submissions supported grant of the application. One submission, that of Puketapu Hapū, gave conditional support to the application and another submission, that of Mr Bryan Phillips, opposed it.

16) The Section 42A report, including supporting expert evidence was filed on 24 April 2026. The applicant's evidence was filed on 4 May. The evidence of Puketapu Hapū was filed on 12 May.

17) The Hearing Panel undertook a site visit on 19 May 2026 during which, accompanied by Ms Kelly the Hearing Administrator, it was escorted around the Club premises by a senior Club member, Mr Griffin, who took the Panel to each firing range and explained the nature of the shooting operations that occurred on that range. The Panel then visited the adjacent property owned by Mr Phillips at 1222 Devon Road. We viewed the interior of both the residence occupied by Mr Phillips and his children, and the secondary tenanted residence on the property, and then walked the boundary Mr Phillips shares with the Club. Lastly, we visited the property on the opposite site of Devon Road, (which also serves as State Highway 3), walking across the farmland directly opposite the Club premises that is zoned Future Urban Zone in the PODP.

18) The hearing occupied all of 20 May and from 9am to noon on 21 May.

19) We heard, for the applicant:

- Sarah Ongley, as counsel;
- Michael O'Sullivan, President of the Club;
- David Bolger, Contaminated Land Expert, for the Club;
- Dr Jeremy Trevathan, Acoustic Expert, for the Club
- Aaron Edwards, Planning Expert, for the Club;

20) We heard from four submitters:

- Maree Rush;
- Colleen Tett;
- Puketapu Hapū, through Rowan Williams, Planning Expert; and Raukura Salisbury;
- Bryan Phillips.

21) Lastly, for the Council, we heard from:

- Damian Ellerton, Acoustic Expert;
- Sarah Shepherd, Contaminated Land Expert;
- Campbell Robinson, Planning Expert and Reporting Officer.

22) At our direction, Dr Trevathan and Mr Ellerton conferenced, and produced a Joint Witness Statement (**JWS**) prior to the hearing. We heard them together (colloquially termed 'hot tubbing').

23) Following adjournment of the hearing, we visited Mr Phillips' property again, having pre-arranged with the Club that one of its members would undertake a controlled firing demonstration involving multiple shots using, in sequence, a 9mm pistol, a .38 pistol and a .22 pistol at each outdoor range, commencing at Range 1. We stood at the back of the secondary (tenanted) residence on the property while the demonstration occurred, some 100-110 metres from Range 1.

24) Pursuant to leave we had reserved, we subsequently received written material from Puketapu Hapū, Mr Phillips, and Messrs Ellerton and Robinson, responding to additional material the applicant had provided during the hearing, a response from Mr Robinson to the Puketapu Hapū material, a JWS from Messrs Robinson and Edwards, and Ms Williams, who had conferenced at our request in relation to consent conditions, and the applicant's Reply. Subsequently, we received further material by way of clarification we had requested from the applicant on 2 July 2026, following which we closed the hearing on 6 July 2026.

The Site and Environs

25) The Club premises occupy approximately 1.7 ha that form part of a much larger property owned by Te Atiawa Holdings Limited Partnership and which is currently farmed. We were told that the Club currently has no legal right of occupation of the premises because negotiation of a suitable arrangement with the landowner is awaiting the outcome of the resource consent application.

26) The Club premises are accessed off State Highway 3 and consist of a single level building providing clubrooms with access to the indoor range. The eight outdoor gun ranges are located behind the clubrooms. Figure 1 below, taken from the application, shows the location of the eight existing ranges. Ranges 10 to 12, noted on that figure are no longer in use. Ranges 1-7 are aligned generally to the south/south-west (towards Taranaki maunga). Range 8 is aligned to the south-east.

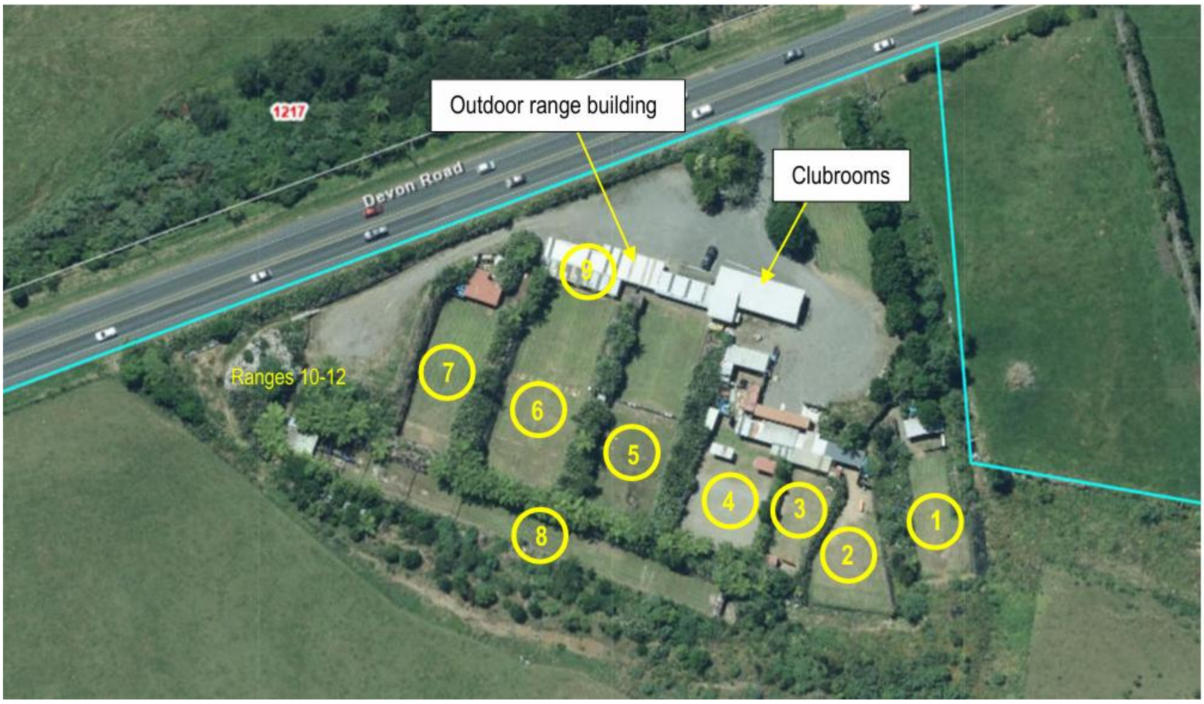

Figure 1 range layout on the site

27) An unnamed tributary of the Mangaoraka Stream runs along the eastern boundary of the site.

28) The blue line on Figure 1 shows the boundary between the site and Mr Phillips' property. The two residences on Mr Phillips' property are located further to the east. Figure 2 below is taken from the draft Noise Management Plan Dr

Trevathan tabled and shows the location of Mr Phillips' primary residence relative to the Gun Club. The secondary residence is also visible in Figure 2, adjacent to the white-roofed garage, further away from the State Highway and slightly closer to Range 1.

Figure 2-Juxtaposition of Site and Dwellings located on 1222 Devon Road

29) The site is zoned General Industrial Zone (**GIZ**) in the PODP. Mr Phillips property is zoned Rural Production Zone (**RPZ**) in the PODP. The land opposite the site to the west is currently used for farming but is zoned Future Urban Zone (**FUZ**). Sports and Recreation activities are non-complying activities within the GIZ under the PODP, and Messrs Robinson and Edwards agreed that that was the appropriate activity classification for the application. We accept that view.

Description of Activity

30) Multiple shooting disciplines occur at the site currently, including:

- Multi gun;
- Action shooting;
- Cowboy action shooting;
- International Practical Shooting Confederation (**IPSC**);
- Service pistol;
- Speed;
- Muzzle loading;
- International Sport Shooting Federation (**ISSF**);
- Hand gun metallic silhouette.

31) In addition, Range 8 (the longest range) is used for sighting in rifles.

32) Different shooting disciplines are undertaken on different ranges. Range standing orders that determine which disciplines can be undertaken on which ranges and that are required under the Arms Act 1993 were attached to the application. The range standing orders prescribed, for instance, that Range 1 is approved for all pistol New Zealand shooting disciplines except silhouette pistol.

33) The current hours of operation (pursuant to the agreement the Club has with the Council) are:

- Wednesday: 9am-4pm;
- Thursday: 5pm-8pm;
- Friday: 9am-4pm;
- Saturday: 9am-5pm;
- Sunday: 9am-4pm.

34) As originally framed, the applicant sought the ability to undertake shooting activities 9am-9pm, seven days a week, including public holidays. As discussed below, this position was subsequently varied.

35) The application noted that the facilities were proposed to be used by New Zealand Police (including the Armed Offenders Squad (**AOS**)) to undertake

training, which would generally be three days per month for Police and an additional five times a year for AOS.

36) The proposal involves substantial earthworks, which include disturbance of existing contaminated soils, are described on page 10 of the Section 42A Report. We adopt that description.

37) The proposal also involves extensive mitigation of noise emanating from the site, including location of a two-container high physical barrier on the eastern side of Range 1, location of containers at other selected locations and acoustic fences between a number of other bunds. Figure 3 shows the concept presented in the application.

Figure 3- Acoustic Mitigation Concept as per Application

38) The proposed mitigation requires the Club to commit to substantial costs (in excess of $1.5 million in total) and was advanced on the basis that it would be undertaken in stages, as the Club was in a financial position to commit the required funds.

39) The proposal, as originally presented in the application, underwent significant amendment as the hearing proceeded. Those amendments were generally, but not universally, positive in terms of reducing the adverse effects if consent were granted, but because the application seeks retrospective consent in part, we need to assess the effects of the Club's operation historically, the effects currently, and the effects as they would be if consent were granted on the proposed terms going forward.

40) Accordingly, we will address the substantive changes made to the application as part of our effects assessment.

41) First, however, we need to consider whether it is legally open to us to grant consent.

Non-Complying Gateway Assessment

42) As above, the application before us are properly assessed as non-complying activities. As such, Section 104D of the RMA applies. It reads:

> *(1) Despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—*
> *(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or*
> *(b) the application is for an activity that will not be contrary to the objectives and policies of—*
> *(i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
> *(ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
> *(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*
> *(2) To avoid doubt, section 104(2) applies to the determination of an application for a non-complying activity.]*

43) The provisions of 104D are commonly described as providing gateways. The application must satisfy one or other of the tests/gateways in Section 104D(1). Otherwise, it must be declined.

44) The Reporting Officer concluded in his Section 42A report that neither limb of Section 104D(1) could be met, and accordingly the application was not eligible

to be considered for approval. The question we have to consider is whether this conclusion is correct, having regard to the modifications the applicant made to its proposal prior to and at the hearing.

(3) We approach the question on the basis, as submitted by counsel for the applicant[4] that the test of whether a proposal is 'contrary to' the objectives and policies of the PODP, which is the relevant plan for this purpose, means more than that the proposal is not provided for in the PODP. That position reflects the finding of the High Court in *New Zealand Rail Limited v Marlborough District Council*[5] that the test of contrariness contemplates "*being opposed to in nature different to or opposite"*. The Court also noted dictionary definitions suggesting that the outcome needs to be "*repugnant and antagonistic"* to the objectives and policies.

45) The Court of Appeal stated in *Dye v Auckland Regional Council*[6] that "*a fair appraisal of the objectives and policies read as a whole"* is required.

46) As the Supreme Court has noted, however[7]:

> *"That does not mean all objectives and policies can simply be put in a blender with the possible effect that stronger policies are weakened and weaker policies strengthened. Rather attention must be paid to relevant objectives and policies both on their own terms and as they relate to one and other in the overall policy statement or plan."*

47) In the case the Supreme Court was addressing, the Court had to determine the weight given to specific directive policies that sought to avoid the effects the proposal would have in the context of the Plan as a whole.

48) The same difficulties do not arise here. Mr Robinson advised in response to our query that there were no objectives and policies that directed that the activity for which consent is sought should not occur. Rather, this was a case where, if we found the adverse effects of the proposal to be significant, that would lead to the conclusion that the proposal was inconsistent with a number of the objectives and policies of the Plan, and vice versa.

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[4] Applicant's legal submissions at paragraph 14.
[5] [1994] NZRMA 70.
[6] [2002] 1 NZLR 337 at [25].
[7] *Royal Forest and Bird Protection Society of New Zealand Inc v New Zealand Transport Agency* [2024] NZSC 26 at [80]

49) We agree with that assessment of the character of the relevant objectives and policies. We address those objectives and policies in greater detail below, but suffice it to say, we do not consider that the proposal could be said to be "*contrary to*" the objectives and policies of the PODP given that characterisation and applying the direction provided by the High Court in the *New Zealand Rail* case quoted above.

50) We sought to test that reasoning by asking Mr Robinson why he thought that Sport and Recreation Activities were Non-Complying in the PODP, and what zone(s) would be appropriate for a gun club to establish in.

51) He considered that the PODP was seeking to avoid reverse sensitivity effects from having sensitive sport and recreation activities establish near industrial activities, and that the most appropriate zones for a gun club were GIZ and RPZ.

52) Those answers reinforce our view that whatever might be said about other sports and recreational activities, this particular one is compatible with the objectives and policies of the GIZ, and therefore necessarily, not contrary to them. The objectives and policies of the Noise chapter are more equivocal, but in our view cannot be said to be contrary to the continued operation of the Club given our findings on adverse effects below.

53) While Mr Robinson drew our attention to the objectives and policies in both the RPZ and FUZ, we place less reliance on them for the reasons discussed below.

54) Ms Williams relied on Ms Salisbury's evidence as to the significance of the Mangaoraka and its margins as to Puketapu Hapū and potential impact on the values of the stream, drew our attention to the need for strategic objectives NE-9 and NE-10 to read alongside the waterbody objectives, and the lack of certainty as to long term outcomes from the conditions proposed, concluding that the proposal was therefore not consistent with the relevant identified objectives and policies[8].

[8] EIC, Ms R Williams, Paras 24 - 37

55) We consider that Ms Williams's view reflected a focus on potential adverse cultural effects arising from the existing contamination of the site resulting from the operations of the Club and its predecessors, rather than on the activities the applicant had sought consent for.

56) We discuss the provisions Ms Williams referred us to in greater detail in our assessment of the planning framework below.

57) We therefore disagree with the Reporting Officer's view that the proposal does not pass through the Section 104D(1)(b) gateway. We do not, therefore, need to form a view as to whether the proposal passes the alternative effects-based gateway in Section 104D(1)(a) for this purpose. Suffice to say, however, based on our analysis of adverse effects below, we find that with the constraints on operation of the Club proposed at the hearing, and modified in this decision, the effects of the proposal will be no more than minor such that it would have passed that gateway if required.

Framework for Assessment of Application

58) Having concluded that the proposal is not ineligible for grant of consent under Section 104D, we need to apply the tests set out in Section 104 of the RMA, as follows:

> ***104 Consideration of applications***
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> *(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2 and section 77M, have regard to–*

> (a) *any actual and potential effects on the environment of allowing the activity; and*
> (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
> (b) *any relevant provisions of—*
> (i) *a national environmental standard:*
> (ia) *a wastewater environmental performance standard:*
> (ib) *a stormwater environmental performance standard:*
> (ic) *an infrastructure design solution:*
> (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*
> (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

Effects Assessment

59) Our assessment therefore commences with consideration of the actual and potential effects on the environment of allowing the activity.

60) To undertake this assessment, we need to determine what "the environment" is for this purpose.

61) Normally, the environment for this purpose is what one sees on the ground, overlaid with the effects of existing resource consents and permitted activities where it is likely that those resource consents and permitted activities will be exercised in the future[9].

62) However, it is clear that changes to the environment that have occurred illegally are not to be taken into account in an effects assessment[10].

63) The club has been unable to substantiate its previous understanding that it had existing use rights in relation to its operations. While it has an agreement with the Council, that does not mean it is operating lawfully. The fact that this

[9] *Queenstown Lakes District Council v Hawthorn Estate Limited* [2006] NZRMA 424; *Meridian Energy Limited v Tararua District Council and Others* [2025] NZEnvC 044
[10] See *Schofield v Auckland Council* [2012] NZEnvC 68.

application was required, and its proposed retrospective effect, demonstrates the contrary.

64) As above, it appears that the Club established on the site lawfully in 1983. Dr Trevathan noted in his evidence[11] that maximum noise levels at the notional boundary of Mr Phillips' secondary residence at that time would likely have been similar to that at present, and although the number of members was much less in the 1980s, ammunition was much cheaper, so the intensity of use "may have been" similar.

65) While the Reporting Officer accepted that the effects of the application might be considered relative to the "lawfully established environment"[12], we are not sure that is correct given that the duty occupiers of land have under section 16 of the RMA to adopt the best practicable option to ensure that the emission of noise does not exceed a reasonable level applies to lawfully established activities. We note also that counsel for the applicant accepted that without mitigation, the noise from individual gunshots at Mr Phillips' property was "too high".[13]

66) Moreover, Mr Phillips told us that he was not so much concerned about the maximum levels of noise, as the hours the Club operated and the number of shots when it operated, and Dr Trevathan's evidence did not provide us with a sufficient basis to establish exactly what the baseline noise environment was from that perspective.

67) The applicant was on firmer ground, however, suggesting that the effect of the noise of passing traffic on Devon Road/ State Highway 3 is part of the existing environment, and the effects of the Club's operations need to be assessed relative to that baseline.

68) Beyond that, however, we note and adopt the Reporting Officer's view that there are no relevant permitted activities that affect our assessment of effects.[14]

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[11] J Trevathan EIC at para 59
[12] Section 42A report at 85
[13] Legal submissions for applicant at para 23
[14] Section 42A report at 76, noting that Mr Edwards agreed with that position in his EIC at para 76

69) Lastly, we provided with a copy of the written approval to the application given by New Zealand Transport Agency Waka Kotahi (**NZTA**), and so any effects on NZTA should be disregarded.[15]

Positive Effects

70) The definition of effects in RMA Section 3 includes positive effects. We accept that the Club's operations provide both public and private benefits.

71) In particular, it provides a facility for local NZ Police members, including AOS to train. We were advised that if it were not available, Police and AOS would need to travel to Hamilton or Whanganui for their training requirements. This is a clear public benefit.

72) The Club is obviously beneficial to its members and to guest shooters who travel to participate in planned events, including competitions. The number and content of submissions from other parts of the country made the latter clear and Ms Rush and Ms Tett told us about the benefits of membership, both personally to their wellbeing, and for other members. Mr O'Sullivan also told us about the range of shooting activities undertaken at the Club. We need to take all of these matters into account.

Noise Effects

73) The principal effects issue in contention was noise received at the adjacent Phillips' property (1222 Devon Road) and on the FUZ land on the opposite side of Devon Road from the Club premises.

74) Dr Trevathan's evidence was that there was no basis on which to conclude that the existing situation was not having a significant adverse effect at the Phillips' property.[16] Consistent with that evidence, counsel for the applicant accepted that without mitigation (i.e. as the Club has historically operated) noise from individual gunshots is "too high" at the Phillips' property.[17]

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[15] Refer RMA section 104(3)(a)(ii)
[16] J Trevathan EIC at para 62
[17] Legal submissions for the applicant at para 23

75) Consistent with that position, in response to our query, counsel accepted that Mr Phillips' complaints about noise at his property were justified.

76) Counsel also noted caselaw that indicates that noise levels must be reasonable even if neighbouring residents have 'come to' the noise.[18] Consistent with that authority, counsel told us that the applicant accepted that the pre-existence of the Club is not a decisive factor, and noise levels have to be controlled to a level that is reasonable.

77) Against this background, Ms Tett's thinly veiled suggestion that Mr Phillips' concerns should be given less weight than the interests of the Club because he moved next to an established pistol club are not accepted. Rather, we accept counsel for the applicant's position that noise levels at the Phillips' property need to be reasonable, and we find that that is not currently the case. We do not therefore need to determine whether Mr Phillips belief that the hours shooting occurs have materially increased since his arrival is correct.

78) We directed the two acoustic experts, Dr Trevathan and Mr Ellerton, to conference prior to the hearing. We thank them for their assistance, and for the efficiency with which they produced their JWS before the hearing. The JWS was of considerable assistance to us.

79) A good level of agreement was reached between the acoustic experts. Both Dr Trevathan and Mr Ellerton stated in their Evidence in chief that the standard noise limits in the PODP were not appropriate for, and did not manage, the impulsive gunshot noise emanating from the Club premises. In their JWS, they agreed that Composite Noise Rating (**CNR**) was an appropriate metric to assess and manage gunfire noise at the notional boundary of the dwellings at 1222 Devon Road and within the FUZ, and that CNR 90 was an appropriate threshold.

80) The experts explained to us how CNR works, and the sensitivities of the various terms that influence the calculated CNR value. In simple terms, CNR is affected by the level of the shots received, the number of shots fired, the time period over which shooting occurs, and the community adaptation term.

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[18] *Davis v Gisborne District Council* [2020] NZEnvC 74 at [56]

81) In their JWS, the experts agreed that the CNR level should be calculated according to the following equation: CNR = (Y - A) - 12 + 10logN + 10logT. They agreed that Y is the log-average LZpeak level for all shots over the day, N is the number of shots over the day, and T is the proportion of the permitted shooting period represented by the time between the first and last shot fired on the day.

82) The experts also agreed that the community adaptation term (A) should be set at the conservative value of 13, reflecting no adaptation to shooting noise. We accept that approach. It is consistent with the nature of Mr Phillips' complaints and the adverse response to shooting noise that we heard in his evidence. On that basis, and absent any adjustment for burst firing, the simplified CNR equation would be: CNR = Y + 10logN + 10logT - 25.

83) In his evidence in chief and in his supplementary evidence of 25 May 2026, Mr Ellerton identified an additional element of the CNR formula (10logR), which relates to the number of rounds per burst. For single shots, R = 1, which means that there is no correction to the CNR. Mr Ellerton recommended that R be set at 3 for rapid firing, which would result in a +5 correction to the CNR.

84) Following Mr Ellerton's supplementary evidence, we received a supplementary statement from Dr Trevathan, dated 17 June 2026, directly addressing Mr Ellerton's proposal to include R in the formula. Dr Trevathan explained that in the original National Acoustic Laboratories formulation, 'N' was defined as the number of noise events per day and 'R' as the number of rounds fired within each noise event. On that formulation, the total number of rounds fired per day is the product of N and R. However, the experts in this case had already agreed that N would be defined directly as the total number of individual shots fired in a day. That simplifies the original formulation and captures the same information.

85) We accept Dr Trevathan's analysis. Given that N is agreed to mean the total number of individual shots fired in a day, adding R as a separate factor would double count rounds already captured within N. If R were to be included in the manner Mr Ellerton suggests, the definition of N would need to revert to the number of events per day, rather than individual shots. That would add

complexity without improving the assessment. We also accept Dr Trevathan's evidence that the R term was originally directed to circumstances where multiple rounds are fired effectively as a single event, such as volleys or near-simultaneous firing. Use of automatic firearms, such as machine guns, is not a material feature of the Club's activities. We therefore do not include R in the CNR formula. The CNR equation to be applied through the conditions is therefore CNR = Y + 10logN + 10logT - 25.

86) There was also agreement that noise levels should be expressed as LZpeak rather than LAFmax for the purposes of the CNR calculation and compliance monitoring. We accept that approach because it standardises the noise metric and reduces the potential for misunderstanding. We also accept Mr Ellerton's observation that, where LAFmax is used for descriptive or comparative purposes, it should not create a separate or inconsistent compliance framework.

87) The assessment location for noise monitoring purposes, and for determining the expected noise reduction, was agreed to be the notional boundary of the secondary dwelling at 1222 Devon Road. The relevant location was in the vicinity of the gateway between Mr Phillips' paddock and the curtilage of his property. That location is indicated by a red cross in Figure 4 below (taken from the draft Noise Management Plan attached to Dr Trevathan's evidence).

Figure 4- Agreed Monitoring Point on 1222 Devon Road (subject to landowner consent) marked with red cross

88) We accept that location as the appropriate primary assessment location, so long as Mr Phillips is happy to allow his property to be accessed for this purpose. While Mr Phillips did not voice an objection to that, he made it clear that he would need to review the implications of his agreeing to allow access, and therefore the relevant condition properly provides for an alternative monitoring point to be used if necessary. We observe that the applicant's reply version of conditions did not state clearly that the preferred monitoring location was on 1222 Devon Road. We have amended it to better express what we understand to be the intention of the two acoustic experts in this regard.

89) We have also considered the potential noise effects on the FUZ land opposite the Club. Mr Robinson maintained a concern that that land (also described as Area R) is intended to provide for future residential development and forms part of the Council's urban land supply. His concern was that unresolved shooting noise effects could compromise that future urban development function and create reverse sensitivity effects.

90) Following the hearing, the planning experts conferenced. The JWS records a number of areas of agreement on conditions, but did not resolve Mr Robinson's overall concern. He maintained his recommendation that consent be declined. The JWS is nevertheless helpful in confirming that the conditions should not rely on undefined future mitigation in relation to the FUZ land.

91) We accept that the FUZ land is relevant and should not be treated as if it will necessarily remain in its present rural use. However, there are no existing residential receivers on that land. The existing most affected receiver is Mr Phillips' property.

92) We also accept that, in principle, the same CNR 90 control should apply to any future residential receiver in the FUZ if dwellings are established there. We rely on the acoustic experts' agreement[19] that there is unlikely to be a risk that future residential development within the FUZ will be curtailed if noise is managed to meet a CNR 90 requirement (Mr Ellerton) and that such risk is expected to be minimal (Dr Trevathan). On that basis, and subject to conditions ensuring that outcome, we do not find that the proposal will preclude or materially compromise the future urban development of Area R. We find that the potential noise effects on the FUZ land will be appropriately managed.

93) During our second site visit, following adjournment of the hearing, we experienced a controlled shooting demonstration involving 9mm, .38 and .22 calibre pistols. Five shots of each ammunition type were fired on each outdoor range, starting with Range 1 and moving through to Range 8.

94) We stood at the rear of the secondary dwelling on Mr Phillips' property, approximately 100-110 metres from Range 1 at the agreed monitoring point shown in Figure 4. We were in telephone communication with the range officer, which enabled us to understand which range and ammunition type was being used as the demonstration proceeded.

95) Subjectively, we found the 9mm pistol to be the loudest and the .22 calibre pistol to be the quietest. The .22 calibre shots were approximately half as loud

[19] Noise Experts JWS, Point 10

as the larger calibres to our ears. Because of its proximity, Range 1 resulted in the greatest intensity of noise at our listening position.

96) As shooting proceeded through the ranges, a combination of increased distance, the shielding effects of bunds and other structures, and the alignment of the ranges meant that the loudness generally diminished. Range 8 was an exception. Because that range is located behind the other ranges, its firing direction was more aligned with our listening position, and the actual firing position was closer than some of the intervening ranges. As a result, Range 8 produced more noticeable noise than might otherwise be expected from its numbering.

97) Our observations assisted our understanding of the current noise effects, and how those effects vary depending on range location and firearm or ammunition type. They also reinforced our impression from the evidence that Range 1 is the closest and most noticeable range at Mr Phillips' property, and that larger calibre handguns produce a materially greater effect than .22 rimfire firearms.

98) We also experienced the level and character of road-traffic noise at Mr Phillips' property during both site visits. Mr Ellerton's evidence was that gunfire noise is different in character from State Highway 3 traffic noise and currently emerges from the ambient noise environment. We observed, consistent with Mr Ellerton's evidence, that gunfire was clearly audible at Mr Phillips' property against the background of road-traffic noise.

99) During the shooting demonstration, gunfire noise was most notable from the closest ranges, even when .22 rimfire firearms were used. As shooting progressed beyond Range 4, there was some masking by road traffic, particularly for .22 rimfire shots. That was not the case to the same extent for 9mm and .38 ammunition.

100) We accept Mr Ellerton's view that while the noise contribution from State Highway 3 is part of the receiving environment, it does not render gunfire noise insignificant. The sudden and impulsive character of gunfire means that unless mitigated to reasonable levels, it remains noticeable and potentially annoying even in an environment affected by road-traffic noise.

101) Mr Phillips also raised concerns about ricochets. His submission was that ricochets occur from time to time on the range. Mr Ellerton also recorded hearing ricochets while on Mr Phillips' property. There are two aspects to this issue. The first relates to safety, which we address separately. As regards the implications of ricochets for noise assessment, Mr Ellerton told us that the difference in the sound of ricochets was not material. We accept his evidence in that regard.

102) The applicant seeks the ability to undertake shooting seven days a week. Thursday would remain the normal Club evening, allowing members to shoot after work and allowing potential new members to experience shooting. We accept that Thursday evening use has importance to the Club.

103) However, we also heard from Mr Phillips that Sundays are precious to him and his family, and that he has school-aged children, aged between 12 and 16 years, for whom evening shooting on a school night is a particular concern. He told us that his tenant has two children aged 7 and 10 who are generally in bed by 7pm on school nights. Mr Phillips is retired and is home for much of the week. His tenant is a single mother who works part-time.

104) Those matters are relevant to our assessment of both hours and respite. The experts agreed that scheduled quiet or low-noise periods provide respite. The Club nominated low-noise periods during the week, including 1200-1500 hours on weekdays and 1700-1900 hours on Saturdays. The experts also agreed that it would be helpful to understand Mr Phillips' views on the days and times most sensitive to him.

105) Mr Phillips started from a position that (in effect) he had had enough of the noise. He noted that his original concern had been about the expanding extent of Sunday shooting, and that provision for low noise periods on weekdays would not address that concern. He also expressed a clear preference that if there was going to be a period of lower-noise shooting, it be in the morning, rather than the afternoon.

106) We take on board Mr Phillips' preference, as well as his more general concerns. This reinforces the importance of the Panel determining a reasonable and enforceable pattern of use which provides certainty and real

respite. We have amended the proposed conditions to require the period from 0900 to 1200 hours be a low-noise period on each day of the week. That approach provides a consistent and readily understood period of respite, and is simpler and more predictable that a range of different low-noise periods at different times on different days. It also ensures that Sunday mornings are protected, which responds directly to the evidence we heard from Mr Phillips about the particular importance of Sundays to him and his family.

107) For defined low-noise periods to achieve their objective, they need to be supported by a clear definition of a low-noise firearm and a robust certification process.

108) We are satisfied that the definition proposed in the applicant's reply version of conditions is generally appropriate, but consider the suggested wording needs to be amended to state that a low-noise firearm is a firearm which, in combination with a specific range, "*will achieve*" a noise level of 71 dB LZpeak or less at the notional boundary of the secondary dwelling at 1222 Devon Road. Certification must identify the firearm type and serial number, the range or ranges on which it is certified, and the measured level.

109) We do not support general Club shooting outside the hours of 1200 to 1900 hours on any day. As discussed above, the period from 0900 to 1200 hours should be protected as a low-noise period each day. General Club shooting should therefore only occur between 1200 and 1900 hours, subject to the CNR limit, daily shot limits, and all other applicable controls. Having regard to the evidence of Mr Phillips, the presence of school-aged children in the adjacent dwellings, and the need to protect evening amenity and sleep, we find that shooting must cease by 1900 hours on all days of the week. A consistent daily pattern of low-noise activity between 0900 and 1200 hours, followed by ordinary shooting between 1200 and 1900 hours, is more certain and appropriate throughout the year.

110) We also do not support late-night Police or AOS low-light training extending beyond the standard 1900 hour limit, including during summer. The public benefit of Police and AOS training is significant, and we have taken it into account. However, the evidence does not justify extending shooting beyond

the hours that apply to general club use. Police and AOS training must operate within the standard 0900 to 1900 hours. In practice, winter months provide sufficient darkness for low-light training to occur within those hours. In summer, when daylight persists beyond 1900 hours, late-evening low-light training cannot be accommodated within the permitted hours, and we do not consider the evidence warrants an exemption for that purpose.

111) Mr Phillips told us that he was aware of the Club before purchasing his property in 2019. We accept that evidence, but as above, consider it to be of limited significance. We also heard that, after Mr Phillips removed a row of tall pine trees from his property, the gunfire noise was subjectively sharper and travelled further.

112) Mr Phillips said that he had discussed the planned removal of the trees with the Club in case he would experience more noise, but that this did not occur in a way that resolved the issue. We asked Mr Ellerton whether a tree belt would provide material noise reduction. He confirmed that, in this case, any physical noise reduction would be negligible.

113) Mr Ellerton did acknowledge, however, that the tree belt may have provided some psychological or perceptual benefit because, generally, if a noise source is not visible, noise effects may be reduced. We accept that evidence. We were not presented with sufficient evidence to identify why the removal of the trees became the tipping point for Mr Phillips' complaints, but we accept that it may have contributed to his perception of the noise.

114) As originally framed, the conditions proposed by the applicant did not contain any limitation on the use of firearms outside the identified low noise periods until mitigation was installed other than the obligation to meet CNR 90. The original conditions also did not contain a clear obligation to undertake the identified mitigation. The reporting officer's recommendation to reject the application against that background was readily understandable and we would likely have come to the same view. However, the applicant has materially shifted its position in both respects.

115) In particular, the proposed conditions now limit firing to .22 rimfire firearms on all ranges until the permanent Acoustic Mitigation Works have been

implemented, except for suppressed centrefire firearms on Range 8. The conditions also provide that Range 1 must not be used more than once per calendar month prior to commencement of the Range 1 mitigation works, and not used at all from commencement of works until their completion. Based on our observations and the acoustic evidence, we find those to be appropriate interim controls.

116) The interim control also creates an incentive for the Club to implement staged mitigation expeditiously on the ranges where mitigation unlocks the ability to use other firearms and undertake particular activities, such as Cowboy Action, that involve rifles and shotguns. That incentive structure is relevant to most ranges, but Range 1 is different for the reasons discussed below.

117) The conditions provide that the interim operational controls may be lifted progressively on a range-by-range basis as Acoustic Mitigation Works are completed and verified. The applicant proposed that interim operational controls might also be lifted if temporary mitigation was in place. It was suggested that such temporary measures might include limitations on firearm types or ammunition, partial use of ranges, reduced shooting frequency, bunding, or temporary acoustic barriers. The permanent mitigation package assessed by Dr Trevathan gives us reasonable certainty as to the efficacy of those permanent measures. Temporary measures must therefore be similarly verified before any interim controls are relaxed.

118) We therefore accept that in addition to the permanent staged works, the interim controls may also be relaxed in respect of a particular range (other than Range 1) where temporary mitigation measures are in place, provided those measures have been documented and demonstrated, through an attended noise measurement campaign conducted by a suitably qualified and experienced acoustic practitioner, to achieve the required noise levels at the notional boundary of the secondary dwelling, and certified by the Council. The conditions proposed by the applicant did not provide those safeguards. We consider that the concerns Mr Robinson expressed in the planners' JWS regarding the applicant's proposed conditions around temporary mitigation were well founded and we would not have accepted provision for temporary mitigation without the amendments we have made.

119) We note that if at any time the Consent Holder is unable to demonstrate compliance with the CNR 90 limit, the Consent Holder must immediately restrict shooting activity to that which achieves compliance, including, if necessary, reverting to the interim operational restrictions.

120) Range 1 is an exception. We have not provided for the relaxation of interim controls over use of Range 1 if temporary mitigation is put in place, because Range 1 is the closest range to the Phillips' dwellings and, on the evidence and our own observations, gives rise to the greatest shooting noise effects at that property. The Range 1 works are also linked to removal and replacement of the existing bund and associated contamination and waterbody issues. Given those factors, we consider that the interim restrictions on Range 1 should remain until the permanent Range 1 Acoustic Mitigation Works have been completed and verified.

121) Dr Trevathan explained his noise mitigation model and stated that he had a good level of confidence that the actual results would be within an acceptable range. Mr Ellerton had not reviewed Dr Trevathan's model in detail, but did not object to the anticipated level of reduction predicted by it.

122) It is common, and in this case necessary, for compliance monitoring to be undertaken once physical mitigation measures have been implemented, and for those measures to be adjusted if compliance is not achieved. We therefore support conditions requiring attended monitoring, verification, and, if necessary, revision of the Acoustic Mitigation Works and / or Noise Management Plan by a suitably qualified and experienced acoustic practitioner following completion of each stage of mitigation.

123) Dr Trevathan did not advise the Club as to the staging of the physical mitigation measures and therefore could not explain the rationale for it. We are therefore reliant on the staging plans and the conditions to ensure that the reductions predicted by Dr Trevathan are achieved progressively and in a timely way.

124) Range 1 requires separate consideration. It is the range closest to Mr Phillips' dwellings, and Dr Trevathan assessed the Range 1 mitigation works as

achieving an 8 dB reduction at the assessment location, making it acoustically a significant element of the overall mitigation package.

125) At the hearing, the applicant's position was that the Range 1 works would occur later in the staging sequence. The final conditions now distinguish between removal of the existing Range 1 bund and completion of the permanent Range 1 Acoustic Mitigation Works. The existing bund is to be removed in Year 1, which addresses the contamination concern associated with the unnamed tributary of the Mangaoraka Stream. We deal with that issue separately below, but record here that bringing forward the bund removal responds to the evidence of the contaminated land experts that the Range 1 bund should be addressed sooner rather than later.

126) As explained, we do not consider that temporary mitigation should provide a pathway to earlier relaxation of the Range 1 restrictions. Range 1 is different from the other ranges because of its proximity to Mr Phillips' dwellings, its contribution to received noise levels, and the linkage between the Range 1 works and the contamination issue. Given those factors, we consider that a higher level of certainty is required. The once-per-month restriction before the works commence, and the prohibition on shooting once the works commence, should therefore remain until the permanent Range 1 Acoustic Mitigation Works have been completed and verified (Condition 15 c. and 18).

127) Once the permanent Range 1 Acoustic Mitigation Works are completed and verified, Range 1 may be used more frequently. We understand the intended outcome to be that .22 rimfire use may occur on Range 1 subject to the ordinary hours, low-noise periods, CNR 90 limit, daily shot limits and other applicable controls, while higher calibre use is limited to two days per calendar month and only where provided for in the Range Standing Orders. We accept that outcome because the conditions require verification of the predicted acoustic performance before the interim restriction is lifted, and because subsequent use of Range 1 remains subject to the broader operational controls (Condition 16 b. and 16 c.).

128) Because Range 1 has the greatest potential to influence the daily CNR at the assessment location, the verification step is critical and must not be bypassed.

The conditions should be clear that the restrictions on Range 1 cease only when the permanent Range 1 Acoustic Mitigation Works have been completed and verified in accordance with the relevant conditions. We have amended the conditions to remove any potential argument that temporary mitigation, or completion of only part of the Range 1 works, is sufficient to unlock more frequent or higher calibre use of Range 1 (Condition 16 d).

129) The acoustic consequence of that staging is important. Prior to commencement of the Range 1 works, Range 1 is restricted to use no more than once per calendar month, and remains subject to the general interim restriction to .22 rimfire firearms. Once the existing Range 1 bund is removed, no shooting may occur on Range 1 until the permanent Range 1 Acoustic Mitigation Works have been completed and verified. That means the delay between Year 1 bund removal and later completion of the permanent acoustic works does not create an adverse noise effect for Mr Phillips. To the contrary, from a noise perspective, Mr Phillips is advantaged by that delay because Range 1, being the closest and potentially most significant individual noise contributor at his property, cannot be used during that period.

130) The disadvantage of that staging falls principally on the Club and its members, because they are unable to use Range 1 until the permanent works are completed and verified. For that reason, although Range 1 is acoustically important, we are satisfied that allowing the permanent Range 1 Acoustic Mitigation Works to be completed within the overall 6-year staging period is appropriate. The urgent contamination issue is addressed in Year 1, and the potential noise effect from Range 1 is avoided in the interim by the prohibition on shooting on that range.

131) Once the permanent Range 1 Acoustic Mitigation Works are completed and verified, Range 1 may be used more frequently (Condition 18). We accept that outcome only because the conditions require verification of the predicted acoustic performance before the interim restriction is lifted, and because subsequent use of Range 1 remains subject to the CNR 90 limit, daily shot limits, hours of operation, low-noise periods, and the specific limit on higher calibre use. On that basis, we are satisfied that the staging of the Range 1 works is appropriate.

132) The conditions provide for scheduled events. We accept that a limited number of larger events is important to the Club and its members.

133) We also accept that up to four two-day events per year may be held where the low-noise restriction does not apply. However, the CNR limit must continue to be met during these two-day events, and that limit is not relaxed. This distinction is important. Two-day events provide the Club with a meaningful degree of flexibility by allowing the full range of firearms to be used, while the continued application of the CNR 90 limit ensures that the noise impact on any such day remains acceptable. While Mr Ellerton expressed concern about what he described as 'noise creep', we are satisfied this strikes an appropriate balance.

134) We also accept, in concept, that up to two three-day events per year may justify relaxation of the CNR and low-noise restrictions, provided that the conditions impose clear notice requirements, hours of use, and respite.

135) The applicant originally proposed a three day respite prior to three-day events. It then sought to withdraw that proposal because competitors arrive prior to events and wish to use the range to prepare for the event. At the hearing we queried whether a respite period after events was practicable. In its reply, the applicant proposed that it have the option of a three day respite period either before or after such events.

136) We prefer a clear post-event respite period. Competitors may reasonably need to practise or sight firearms before an event, but that allowance should be confined to persons entered to compete in that event. It should not extend to non-competing Club members, visitors, or other users. Any such competitor practice or sighting allowance should occur within the three days immediately before the event, and within the ordinary hours and noise controls. Following a three-day event, there should be a continuous three-day respite period during which no firearms are discharged at the Club. This requirement applies to all use of the Club during event periods, including Police and AOS use.

137) At the hearing, we also queried the absence of any provision for public holidays on the basis that the values underlying some public holidays clearly conflict with the operation of a recreational shooting range. In response, the

applicant proposed a complete ban on discharge of firearms on five specific days, including Christmas Eve, which is not a public holiday. While Mr Robinson considered that the list of days should be expanded, we consider that the applicant's proposal is a reasonable compromise. Public holidays are days on which club members will likely not be working and may well wish to utilise for their preferred recreation. They therefore have as much value to members as to the club's neighbours. The important thing is that any consent recognises those days in the calendar when the values associated with them conflict with the operation of a recreational shooting range. ANZAC day is an obvious example. We are satisfied the proposed conditions now do that.

138) We also need to address how compliance with the CNR 90 threshold is to be monitored. The acoustic experts agreed that the proposed use of CNR in this way is a relatively novel means of managing shooting noise. We accept that it is appropriate in this case, particularly given the agreement between the experts, provided it is supported by a monitoring system that enables the relevant CNR parameters to be reliably identified.

139) We accept the proposed interim approach, under which a temporary monitoring system must be installed prior to the commencement of this consent and must remain in place until the permanent Class 1 monitoring system is operational. During that interim period, the CNR parameters Y, N and T may be derived from the recorded data, including through post-processing of that data to identify individual gunshots. That is appropriate as a short-term measure. We acknowledge that the temporary system may require active administration and may not provide the same ability to track CNR in real time as the permanent system. Those limitations, and the procedures for managing them, must be addressed in the Noise Management Plan.

140) We agree with the requirement for a permanent Class 1 sound level meter, capable of capturing real-time data to be installed within three months of the date of grant of consent. As Dr Trevathan explained, the permanent automated system should avoid the need for manual entry of the number of shots fired. That is important because manual entry would be resource intensive, would depend on timely and accurate input by Club personnel, and

would not provide the same ability to proactively manage shooting activity against the CNR threshold.

141) Where daily round limits of 2,700 rounds Monday to Saturday and 3,500 rounds on Sunday apply, warning notifications must be sent to the club's Noise Monitoring Officer when the number of recorded shots reaches 2,000 on Monday to Saturday and 2,500 on Sunday, so that the Noise Monitoring Officer is alerted before those limits are reached. An exception applies on the one day per calendar month when AOS training occurs. In that case the warning threshold is 2,500 shots. When the CNR for the day reaches 88, a further warning notification must also be sent to the Noise Monitoring Officer to ensure that the CNR 90 limit is not exceeded. In our view, a permanent automated system with these elements is necessary if the CNR and round limits are to operate as effective management tools, rather than only as retrospective compliance checks.

142) The conditions also require the Consent Holder to install and maintain a sign within the clubroom building that displays, in real time, the number of shots fired each day, as recorded by the permanent Class 1 sound level monitoring system. For the avoidance of doubt, that requirement is tied to the permanent system and does not apply during the interim period when the temporary monitoring system is in operation. We support that requirement. A visible, real-time shot count within the clubrooms is an important management tool. It enables Club staff, range officers, and members to be aware of cumulative daily shot numbers throughout the day, independently of and in addition to the automated warning notification thresholds. We are satisfied that it is a practical and appropriate tool.

143) We also agree with the proposed approach to the location of the monitoring equipment. The experts agreed that, subject to Mr Phillips confirming his in-principle approval, the appropriate compliance location is at the curtilage of the secondary dwelling at 1222 Devon Road.

144) Given the uniqueness of the CNR monitoring approach, the Noise Management Plan should record how both the temporary and permanent systems will operate, how the relevant CNR parameters will be derived,

including how post-processing of data will be conducted in the interim period, how any uncertainties will be addressed, and how the CNR and daily round warning levels will be used operationally to avoid exceedance of the applicable limits. With the conditions addressing these issues, we are satisfied that the proposed monitoring framework is appropriate.

145) The conditions also require the Consent Holder to maintain records of the number of visitors to the site each day and the purpose of their visit (Condition 40). That requirement was offered at the hearing and provides a useful degree of transparency as to how the Club is being used. We understand that this information is already captured by the Club. We do not consider it necessary, however, to require the Club to record the number of rounds fired and type of firearm used by each individual Club member as suggested by Mr Robinson in the planners' JWS. Compliance with the relevant noise limits is to be managed and assessed on a cumulative daily basis, through the CNR calculation, daily shot limits, and monitoring framework. Individualised records of that kind would therefore add little from an effects management perspective, while creating an unnecessary administrative burden and raising avoidable privacy concerns. We are satisfied that Condition 40, together with the shot count and noise monitoring requirements, provides an appropriate level of record keeping for noise management purposes.

146) Mr Robinson suggested that consent should not commence until the Noise Management Plan is certified. We disagree. While the Noise Management Plan is a critical element in the package of controls governing use of the site, it is one of a number of measures. We consider that it is important that, for instance, the restrictions on the use of Range 1 and the varied hours of operation apply at the earliest possible date.

147) Overall, we find that, without the controls and mitigation we have discussed, the noise effects of the Club would be unacceptable. With those controls, including the CNR limit proposed, the interim restrictions before mitigation, the staged permanent Acoustic Mitigation Works, treatment/use of Range 1, uniform shooting hours of 0900 to 1900 hours on all days, the low-noise period from 0900 to 1200 on every day of the week, the limits on events, and the

monitoring and Noise Management Plan requirements, we find that the adverse noise effects will be acceptable and no more than minor.

Safety

148) The evidence of Mr O'Sullivan provided extensive detail about the procedures the applicant has in place and implements on a daily basis to ensure the club operates safely.

149) Clearly, the club runs a tight ship and the only potential safety issue we identified related to ricochets. Mr Phillips gave evidence of regularly hearing ricochets and being unnerved by the uncertainty as to where bullets might land. Mr Ellerton also documented hearing ricochets while on Mr Phillips' property.

150) As above, the sound ricochets make is not an issue. If there was evidence that ricochetting bullets were leaving the club premises, clearly that would be a serious issue. We did not hear such evidence, and Mr O'Sullivan told us about the design of the ranges the club operates which, in his view, preclude ricochets crossing the boundary.

151) We are satisfied that ricochets are not a significant issue, and that measures are in place to minimise potential risk to an acceptable level.

152) That said, Mr Robinson suggested that specific provision be made for consent condition review. We agree with that suggestion and have amended the section 128 review condition to provide specifically for a scenario when ricochets are found to have crossed the site boundary. We disagree with the applicant's position in reply that such a review might be deferred until the anniversary of consent commencement, In our view, Council should be able to move immediately even if other avenues of action to address ricochets are available.

Earthworks and Soil Contamination

153) Contaminated site issues were addressed by expert evidence from Ms Shepherd for Council and Mr Bolger for the applicant. They agreed that

because of the long-standing prior use of the site as a gun range, it qualified as a Hazardous Activities and Industries List (**HAIL)** site under the National Environmental Standard for Assessing and Managing Contaminants in Soil to protect Human Health 2011 (**NESCS**).

154) Mr Bolger told us that site investigations had identified heavy metal concentrations over naturally expected levels, including lead and arsenic levels exceeding human health standards.

155) Taranaki Regional Council monitoring (in response to a complaint) did not, however, identify significant heavy metal inputs to the tributary of the Mangaoraka Stream

156) The earthworks associated with acoustic mitigation works were identified as posing a risk of contamination mobilisation. Mr Bolger assessed the risk of adverse ecological effects on the Stream tributary and its aquatic biota was low.

157) Ms Shepherd considered the conditions the applicant had proposed on Mr Bolger's recommendation to manage contamination risk to be thorough, and had only two suggestions as to potential additional steps. One of those suggestions was that a soil validation report be prepared. Mr Bolger expressed concern that this would apply to the entire site, but Ms Shepherd clarified that she accepted that the focus should be on the areas where earthworks were being undertaken.

158) Summarising her position at the hearing, Ms Shepherd advised that she had not identified any significant adverse effects associated with the proposed works. In particular, she did not consider remediation of existing contamination was required, and told us there was no point remediating the site while it continued to be used as a firing range.

159) She did agree with Mr Bolger, however, that removal of the existing Range 1 bund and creation of a larger buffer between the range and the Stream should occur as soon as possible- "the sooner the better" as she put it. As noted above, the applicant has addressed that issue by bringing forward removal of that bund to the first year in the staged mitigation works.

160) Potential contamination of the Mangaoraka Stream tributary was a particular concern of Puketapu Hapū. Ms Salisbury gave evidence on the culturally significant landscape associated with the Mangaoraka Stream and its tributaries. She also noted that the Mangaoraka Stream is in turn a tributary of the waiongana Stream and is subject to Statutory Acknowledgement under the Te Ātiawa iwi Settlement.

161) Ms Salisbury acknowledged on behalf of the hapū that the applicant had engaged positively with it, particularly regarding environmental and cultural values associated with the site, and recorded a number of proposed actions which she described as positive steps towards recognising cultural and environmental responsibilities associated with the site.

162) However, Ms Salisbury expressed concern both at existing recorded soil contamination levels and whether the proposed works can adequately prevent contaminants from migrating into surface water or groundwater over time, or appropriately manage potential adverse effects. She drew our attention, in particular, to the risk to the mauri of the Mangaoraka tributary due to:

    a. ongoing heavy metal contamination;
    b. contaminant mobilisation during earthworks;
    c. potential groundwater migration pathways; and
    d. insufficient evidence demonstrating long-term contaminant containment.

163) Ms Salisbury gave evidence as to the conflict with Te Mana o te Wai associated with ongoing migration of heavy metals into the water cycle and suggested that allowing high-risk contaminants to remain onsite without sufficient remediation challenges the exercise of rangatiratanga and undermines tikanga-based environmental management.

164) Ms Salisbury identified as deficiencies in the proposed surface water and sediment monitoring the absence of clear provision for;

    a. dedicated groundwater monitoring wells between the ranges and the Mangaoraka tributary;
    b. baseline groundwater sampling prior to works;

c. long-term groundwater monitoring following completion of works; or

d. engineered stormwater treatment systems specifically designed for heavy metal attenuation.

165) We asked Ms Salisbury about remediation of the site when she presented her evidence. She identified the absence of any commitment to site remediation when the club vacates the site as an issue.

166) The applicant proposed additional conditions governing stormwater management in response to Ms Salisbury's evidence. We gave Puketapu Hapū leave to comment on the revised conditions. The response sought ongoing cultural management and monitoring provisions, certainty that stormwater management provisions are in place prior to land disturbance and prioritisation of removal of the Range 1 bund. An attached table provided greater detail, and included a suggested Section 128 review condition specifically directed at these issues. Commenting on the hapū's position, Mr Robinson noted that subsequent revisions of the conditions had addressed many hapū concerns, and that additional provision for cultural health assessments and cultural monitoring had merit.

167) We also note that as part of the planners' JWS, Ms Williams proposed a number of additional conditions to address the issues the hapū had raised. These proposals were framed as a record of outcomes Puketapu Hapū was seeking. In our view, Ms Williams had lost sight of her responsibility as an expert participating in conferencing under the Code of Experts to exercise an independent professional judgment, and was acting as an advocate for her client's position. As a consequence, the weight we can give her conference statement recommendations was severely compromised[20].

168) For its part, the applicant's reply recorded that it was not seeking retrospective consent for soil contamination since 1983 and noted the requirement in section 108AA(1)(b) of the RMA that consent conditions be directly connected either to adverse effects of an activity or an applicable district or regional rule. The

[20] We observe that Messrs Edwards and Robinson also appeared to misunderstand their role in expert conferencing, deferring a response on certain issues to the applicant's reply and further expert input respectively.

applicant also contended that many of the hapū suggestions relate to regional council functions.

169) Earlier, at the hearing, Mr Edwards recorded that the applicant was proffering stormwater management conditions (that might likewise be considered to address regional council functions) on an Augier basis. Mr Edwards also suggested that Ms Salisbury's suggestion of a requirement that the club remediate the site when it vacates the premises was a matter for the club to negotiate with its landlord.

170) The applicant recognised that mitigation of risks of soil contaminants mitigating into the adjacent stream deserved greater priority and proposed that the Range 1 bund be removed in the first year of operation under the consent sought.

171) We agree generally with the applicant's position. While we can completely understand Puketapu Hapū's concern about the potential effects of past contamination of the site given its setting within an important cultural landscape, as the applicant has noted, our focus has to be on the effects of the present application.

172) Those effects arise from the earthworks the applicant proposes and any additional contamination that might result from continuing use of the club's firing ranges.

173) The proposed conditions governing earthworks were largely agreed in the planners' JWS. As regards the point of difference- whether the conditions should require the consent holder to resource Puketapu Hapū for cultural monitoring to occur, we agree with the applicant' position that an open-ended obligation of this kind is not appropriate for a consent condition to be imposed on an applicant.

174) We agree with the applicant also that complete remediation of the site is a matter for the applicant to negotiate with its landlord. The links between the landowner and Puketapu Hapū mean that it will be able to ensure its perspective is considered in that negotiation.

175) The additional separation the applicant proposes provides mitigation of what, in our view is a low level risk given the regional council's investigations did not

detect material heavy metal inputs to the stream. It is also a risk squarely within Taranaki Regional Council's jurisdiction given that it would involve a discharge under section 15 of the RMA. Ms Shepherd described the monitoring wells Puketapu Hapū sought as in the 'nice to have' category. Taking account of the fact that they would come at a not immaterial cost, we do not consider that the case is made out for requiring them.

176) The one substantive amendment we consider is merited is that the Surface Water and Sediment Water Management Plan provided for in (now) Condition 64 should provide for cultural monitoring at Puketapu Hapū's discretion i.e. adopting similar language to Condition 13.

Other Adverse Effects

177) Puketapu Hapū expressed concern about the proposed discovery protocol. This was addressed in the planners' JWS and an agreed alternative condition recommended. We adopt their recommendation.

178) The Section 42A report addressed landscape and visual effects, transport safety and efficiency and archaeology. It recommended additional provision be made for planting at the site entrance (which has been incorporated in the proposed conditions) but otherwise concluded the relevant effects are acceptable. We adopt that assessment.

Conclusions

179) We have concluded that the current effects of the club's operations on its neighbours at 1222 Devon Road are significant, unreasonable and unacceptable for the reasons set out above. The applicant accepted that. It follows, in our view, that the past effects of the club's operations have similarly been significant, unreasonable and unacceptable over a number of years. Mr Phillips' observation of an increased intensity of gun club use since his arrival in 2019 suggests that that effects may have been less prior to 2020, but we do not have enough information to make a finding as to what the level of noise effects was historically, or whether it may have been acceptable.

180) The applicant has proposed that its operations going forward will be substantially modified while permanent and effective mitigation of adverse acoustic effects (in particular) are put in place on a staged basis. We have

determined that additional controls are required, particularly over hours of operation, respite for the club's neighbours, and provision for low noise periods.

181) We find that with the package of controls that results, effects of the activities for which consent is sought will be no more than minor.

Plan Assessment

182) As above, Section 104(1)(b) requires consideration of the listed instruments, where relevant. We work through each category in turn.

National instruments

183) Mr Robinson and Mr Edwards concurred that the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2001 (**NES-CS**) is applicable to the application and that there are no other applicable National Environmental Standards[21]. We have addressed the NES-CS in the activity status section of our report above. We accept that assessment and that there are no other NES's applicable to our consideration.

184) We were not of any relevant instruments for the purposes of Section 104(1)(b)(ia)-(ii).

185) Mr Robinson agreed with the analysis in the application that the proposal was consistent the National Policy Statement for Freshwater Management 2020 (amended December 2025 (**NPS-FM**) [22]. Mr Edwards agreed with Mr Robinson, noting that the, *"… Application has been developed consistent with the concept of Te Mana o te Wai to prioritise the health and well-being of waterbodies and freshwater ecosystems, particularly through appropriate management of earthwork activity within proximity to the unnamed tributary and proposed monitoring."*[23] Ms Williams' evidence referenced Te Mana o te Wai in relation to the strategic direction objectives of the Part Operative District

[21] Section 42A Report, Mr C Robinson, Paras 55 - 58 and EIC, Mr A Edwards, Paras 64 – 65. We record that Ms Williams did not directly refer to the NES-CS in her evidence.
[22] Section 42A Report, Mr C Robinson, Para 288
[23] EIC, Mr A Edwards, Para 168

Plan (**PODP**)[24], rather than in relation to the NPS-FM itself. We deal with that aspect further below under our assessment of the PODP. As to the NPS-FM, noting our assessment of the potential contamination effects, mitigation and conditions proposed above, we find the proposal is consistent with the policies and objectives of the NPS-FM.

186) In his section 42A Report[25], Mr Robinson explained the relevance of the National Policy Statement on Urban Development 2020 (**NPS-UD** - updated May 2022), identifying applicable Objectives and Policies, the status of New Plymouth as a Tier 2 urban environment under the NPS-UD and requirements for the City to meet the NPS. Noting the inappropriate and unmitigated level of noise effects on the southern portion of Area R in the Future Urban Zone (**FUZ**) of the PODP and the potential for the proposal to act as a possible constraint to the future comprehensive develop of Area R, Mr Robinson's conclusion was that the proposal was inconsistent with the NPS-UD. In contrast, Mr Edwards view was the effects were avoided or mitigated such that the proposal would not unduly constrain future development, and as such, the proposal was not contrary to the NPS-UD[26]. Ms Williams did not directly address the NPS-UD in evidence.

187) We note the views of the acoustic experts and our findings as to the potential noise effects on the FUZ zone above, where we conclude that the effects on that area of land are acceptable and able to be managed (See paras 89 - 92 above). Mr Robinson, did not specifically address this change to a position of agreement between the acoustic experts in his reply to matters raised at the hearing. We observe that Mr Robinson remained of the view that the application should be declined. For the reasons expressed in our findings on the acoustic effects in relation to the FUZ, we also find that the proposal is consistent with the NPS-UD.

188) No other NPSs were drawn to our attention. We observe that the subject site is outside the coastal environment overlay in the PODP and as such we have

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[24] EIC. Ms R Williams, Paras 26 - 29
[25] Section 42A Report, Mr C Robinson, Paras 278 - 283
[26] EIC, Mr A Edwards, Para 165

concluded that similarly the subject site is not affected by the New Zealand Coastal Policy Statement.

Regional Policy Statement

189) Mr Robinson and Mr Edwards were of similar differing views when considering Policy AMY 1 of the Taranaki Regional Policy Statement 2010 (**RPS**), which seeks, amongst other things, to *"provide for a safe and pleasant living environment free of nuisance arising from excessive noise"*.

190) No relevant objectives or policies on water quality or land contamination addressed in the RPS were drawn to our attention.

191) Consistent with our findings as to the acoustic effects above, we further find that once subject to the conditions we have discussed, the proposal will be consistent with Policy AMY 1 of the RPS, but that is not the case at present. We also observe that the RPS as not been amended to give effect to the NPS-UD.

District Plan

192) The Proposed District Plan was publicly notified on 23 September 2019. The decisions version was notified on 13 May 2023. The appeals version of the Proposed District Plan was released on 14 September 2023. On 29 August 2025, it became the PODP with the majority of the objectives, policies and rules being beyond challenge, apart from a small number of appeals affecting specific properties.

193) Mr Robinson identified and assessed the following provisions of the PODP as relevant to the proposal:

Objectives: <u>Noise</u> NOISE-O1, NOISE-O2, <u>Rural Production Zone</u> RPROZ-O3 and ROPRZ-O4(3), <u>Future Urban Zone</u> FUZ-O1, FUZ O-4, <u>General Industrial Zone</u> GIZ-O5, <u>Waterbodies</u> WB-O2 to WB-O4, to WB-04, <u>Entrance Corridor</u> COR-O1, <u>Earthworks</u> EW-O1, <u>Contaminated Land</u> CL-O1, <u>Transport</u> TRAN-01 to TRAN-06
Policies: NOISE-P1, NOISE-P3, ROPRZ-P2 to ROPRZ-P5, FUZ-P2, GIZ-P3, GIZ-P4, GIZ-P5, GIZ-P6 (1) – (5), GIZ-P7, GIZ-P8, WB-P1(4), WB-P3(4)

WB-P5(7), WNB-P7, WB-P9, ECOR-P2, ECOR-P4, ECOR-P5, ECOR-P6, EWP1, EW-P2, EW-P3, EW-P6, CL-P1, CL-P2, TRAN-P1 to TRAN-P18.[27]

194) Mr Edwards generally agreed with Mr Robinson's identification of relevant objectives and policies, and provided his own assessment[28]. Mr Edwards noted, however, that the Strategic Direction objectives were not specifically addressed in the section 42A Report[29], providing his own assessment of those additional objectives. Ms Williams generally agreed with and adopted the assessment undertaken by Mr Robinson, providing additional assessment with respect to cultural values engaged by the proposal[30] including a focus on the strategic objectives of the PODP (Natural Environment - NE9, NE-10) and the waterbodies chapter (WB-O1 – WB-O4, WB-P3 and WB-P7).

195) In his addendum Section 42A response to matters raised in the hearing, Mr Robinson drew our attention to the links between the strategic direction provided by the NPS-UD and the FUZ as the mechanism for its implementation, with the FUZ ensuring the strategic objectives for urban form and development planning in the PODP are achieved, including UFD-19[31].

196) In summary, Mr Robinson's assessment as to the noise effects was that the proposal was fundamentally inconsistent with the objectives and policies in the noise chapter, the rural production zone, future urban zone and general industrial zone, and overall with the PODP[32]. The proposal was considered generally consistent with the PODP in relation to other matters, Waterbodies, Entrance Corridor, Contamination, Transport and Earthworks chapters due to the mitigations offered. Mr Edwards concurred with Mr Robinson's assessment as to those other matters[33].

197) As to Mr Edwards' approach as to noise, we summarise his position as being that having regard to the proposed mitigation and operational controls, the elevated ambient noise level from SH3, the zone interface (between General

[27] Section 42A Report, Mr C Robinson, Paras 178- 268
[28] EIC. Mr A Edwards, Para 133
[29] EIC, Mr A Edwards, Para 134
[30] EIC, Ms Williams, Para 22
[31] Section 42A Addendum, Mr C Robinson, Paras 3 - 6
[32] Section 42A Report, Mr C Robinson, Para 269 - 271
[33] EIC, Mr A Edwards, Paras 159 - 163

industrial, rural production and future urban zones), the proposal was consistent with the anticipated role and functioning of the adjoining zones and compatible with the planned character and amenity sought by the PODP[34].

198) As above, Ms Williams considered the proposal inconsistent with key plan provisions related to matters of concern to Puketapu Hapū.

199) Reaching a view on the matters raised by Mr Robinson and Ms Williams is made more difficult by the extent to which the proposal shifted during the process. The basis for many of the conclusions reached in the Section 42A report, in particular, has been overtaken.

200) We start with the objectives and policies in the GIZ. While GIZ-P3 directs that activities that are incompatible with the role, function and planned character of the GIZ, and identifies sport and recreation activities as incompatible activities, the evidence we heard (and have discussed above) did not suggest that this proposal was actually incompatible with the role, function and planned character of the GIZ in the sense this policy is using that term. In our view, the conclusion in the Section 42A report to the contrary was too literal a reading of the policy, and the proposal might reasonably be identified as falling within GIZ-P1, which directs that activities that are compatible with the role, function and planned character of the GIZ be allowed.

201) As regards the key effects issues of concern, we find that GIZ-P8, which seeks to manage and minimise effects in adjacent zones, is not applicable as it only applies to "industrial activities" rather than to other activities, such as "sports and recreation activities"

202) Turning to the Noise chapter of the PODP, NOISE-01 reads:

> Activities generate noise effects that are compatible with the role, function, and predominant or planned character of each zone

203) Mr Robinson suggested that this objective applies to noise effects between zoning boundaries in his Section 42A report. It is not clear to us that this is correct when read against the background of NOISE-P1, which reads:

[34] EIC, Mr A Edwards, Paras 133- 164

> Maintain the predominant or planned character and amenity of each zone by controlling the types of activities and level of noise that is permitted in each zone.

204) Both the objective and the policy can be read as related to noise received in the zone in which they are created.

205) Noise 02 is more generally expressed:

> Activities do not generate noise effects which adversely affect amenity values, the health and wellbeing of people and communities or noise sensitive activities.

206) It needs to be read in conjunction with NOISE-P3:

> Ensure any noise effects generated by an activity are of a type, scale and level that are appropriate for the activity's location having regard to:
>
> 1. the frequency, intensity, duration and offensiveness of the noise being generated;
> 2. whether the level of effects are compatible with the character and amenity of the location and adjacent activities;
> 3. internalisation of effects to the extent practicable and minimisation of conflict at site boundaries;
> 4. any impact on the health and well-being of the surrounding community, including sleep disturbance;
> 5. the adoption/implementation of best practicable options to minimise the adverse effects;
> 6. any positive effects associated with the activity; and
> 7. the ability to avoid conflict with existing sensitive activities.

207) Our conclusions in relation to noise effects above suggest that the applicant's activities are currently contrary to these provisions given that the residential activities on the Phillips property qualify as 'noise sensitive activities'. The conditions proposed, as modified in the manner discussed above, ensure that going forward, the frequency, intensity, duration and offensiveness of the noise being generated are managed appropriately until the best practicable option to minimise adverse effects can be implemented. The focus of sub-policy 4 on sleep disturbance supports the curtailed early evening operating hours we have imposed.

208) Mr Robinson drew our attention to relevant provisions in the FUZ chapter of the PODP. The relevance of those provisions turns on our findings as to whether the applicant's activities will constrain future development of the FUZ land on the other side of State Highway 3. We have found, based on the Acoustic Experts' JWS that this is unlikely. Accordingly, we do not consider those provisions pose an impediment to grant of consent on the terms we have found appropriate.

209) Mr Robinson referred us also to a number of provisions in the RPROZ. We do not find the objectives and policies of this zone to be of any great assistance. While some are generally expressed, unlike those in the FUZ chapter, the focus appeared to be on activities occurring in that zone.

210) Turning to the provisions Ms Williams identified, NE-9 and NE-10 are objectives in the strategic direction chapter of the PODP, worded as follows:

> Tangata whenua are able to exercise their customary responsibilities as mana whenua and kaitiaki in the protection and management of the natural environment.
>
> Te Mana o te Wai, intrinsic values of ecosystems and the life supporting capacity of the district's natural resources are recognised and provided for.

211) As Ms Williams noted, the PODP states that all other objectives and policies are to be read and achieved in a manner consistent with these strategic objectives. The PODP also states (in its General Approach section) that the strategic objectives are given effect by policies elsewhere in the plan.

212) In this regard, Ms Williams noted two policies. First, WB-P3 states:

> Require that activities proposing to locate on sites adjoining a natural waterbody, demonstrate that the activity is located appropriately having regard to:
>
> 1. the particular natural character, ecological, recreational, cultural, spiritual, heritage or amenity values of the natural waterbody and the extent to which the values of the natural waterbody may be adversely affected by the activity;
> 2. the purpose of the activity and whether it has a functional need and operational need to be located adjoining a natural waterbody;

3. the ability to effectively restore and rehabilitate the natural waterbody or off-set adverse effects;
4. for natural waterbodies which have cultural, spiritual or historic values of importance to tangata whenua, the outcomes of any consultation with tangata whenua, including any expert cultural advice provided with respect to mitigation measures; and
5. whether the activity would create new or exacerbate existing natural hazards, including flooding or stream bank erosion.

213) Second, WB-P7 states:

> Consider the incorporation of mātauranga Māori into the design, development and operation of activities on sites adjoining waterbodies which have cultural, spiritual or historic values of importance to tangata whenua and provide opportunities for tangata whenua to exercise their customary responsibilities in respect of waterbodies.

214) Ms Williams suggested that the applicant's approach introduced a level of uncertainty regarding long-term outcomes for the receiving environment and that provision for, Te Mana o te Wai supported a cautious approach recommended in the submission of Puketapu Hapū. In her view, the applicant's proposal was inconsistent with the relevant objectives and policies she had identified.

215) While that may have been the case in relation to the proposal as originally advanced, we do not consider it is a correct assessment of the revised proposal, taking account of the additional measures we have found to be appropriate.

216) In particular, the amended conditions provide opportunities for tangata whenua to exercise their customary responsibilities, and Te Mana o te Wai, intrinsic values of ecosystems and the life supporting capacity of the district's natural resources are recognised and provided for to the extent those matters are engaged by the activities for which consent is sought and within the jurisdiction of the Council. In terms of WB-P3, the club is already located adjacent to the stream.

217) We accept that the proposal may not incorporate all of the measures Puketapu Hapū would like, but it has incorporated many of those measures, and to the extent points of difference remain, we have set out our reasons for accepting the applicant's position above.

Conclusion

218) For the reasons set out above, we find that the proposal, as amended, is now generally consistent with the planning framework, but that the club's past operations have been inconsistent with that framework.

Any other matter

219) Ms Williams considered the Iwi Environmental Management Plan for Te Atiawa, Tai Whenua, Tai Tangata, Ti Ao and the Te Ika o Te Rangi the Puketapu 2037 Strategy were relevant matters, and provided an assessment concluding that as, *"while the proposal aligns with aspects of the Tai Whenua, Tai Tangata, Tai Ao, and the Puketapu Strategy I consider that the extent to which it fully gives effect to the long-term intent of these documents depends on confidence in the ongoing protection of wai, the maintenance of mauri, and the management of effects over time."*[35]

220) Mr Edwards noted that the application avoids activity in close proximity of site of significance to Māori and will manage earthwork activity in proximity to the tributary, concluding that the application was consistent with the objectives and policies of the Tai Whenua, Tai Tangata, Ti Ao.[36]

221) Mr Robinson did not address this matter.

222) Counsel for the applicant submitted that we might take into account the investment the Club has made in its premises. Counsel accepted that this was not a mandatory consideration, but argued that it might be considered under Section 104(1)(c).[37] She noted the estimated replacement value of the Club premises at approximately $5 million.

223) Replacement value is not the same thing as investment, but we accept that Club members have invested significant amounts of money and, no doubt, countless hours of voluntary labour on the premises. This is a relevant matter for us to bear in mind.

[35] EIC, Ms R Williams, Para 48
[36] EIC, Mr A Edwards, Par 169
[37] Applicant's Legal Submissions at para 68.1

Part 2

224) As above, 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. Section 104 is expressed to be subject to Part 2 of the RMA.

225) In its decision in *RJ Davidson Family Trust v Marlborough District Council*[38], 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.

226) Mr Robinson considered the PODP to have been robustly prepared in accordance with Part 2, and that any assessment of Part 2 would not add anything to the evaluation exercise undertaken in the Section 42A Report.[39]

227) Mr Edwards' Part 2 assessment was also brief, concluding that the project was consistent with Part 2 and would promote the sustainable management of natural and physical resources.[40]

228) We acknowledge that the proposal has shifted during the course of the hearing and since the preparation of the Section 42A Report and expert planning evidence were filed. Noting the stage and status of the PODP, and our consideration of the potential adverse effects, we find the reference to Part 2 of the RMA would not add anything to the evaluation of the proposal.

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[38] [2018] NZCA 316)
[39] Section 42A Report, Mr C Robinson, dated 24 April 2026, Para 289
[40] EIC, Mr A Edwards, 4 May 2026, Para 183

Outcome

229) The applicant sought a retrospective consent authorising use of its premises for shooting to this point.

230) We have found that the noise effects of the applicant's shooting currently and over at least the last half dozen years are significant, unreasonable and unacceptable. We have also found those effects to be inconsistent with the planning framework, largely because of those same effects.

231) It follows that any consent we grant will be prospective, not retrospective.

232) This position means that we do not need to resolve the inherent contradiction in the applicant's position, seeking retrospective consent for shooting on the site, but expressly not seeking consent for the soil contamination that resulted from that shooting.

233) Looking forward, we have found that with the conditions proposed, amended in a number of respects, effects of the activities for which consent is sought will be no more than minor and generally consistent with the planning framework. We have determined that it is appropriate to grant consent on that basis.

Conditions

234) Consideration of conditions involves the application of sections 108 and 108A of the RMA.

235) Various suites of conditions were included the application itself, the planning evidence filed for the Applicant under section 103B and handed up at the hearing itself, as well as, a suite attached to the planners' JWS dated 4 June 2026, responses from the parties as to the JWS conditions and finally as an attachment to the Applicant's reply statement.

236) Having reviewed the conditions and associated plans presented, we find the final version of conditions presented by the applicant (with its reply, supplemented by the amendment provided by memorandum on 2 July 2026) to be generally appropriate, having considered the effects of the activities for which consent is sought and our findings above, but with a number of exceptions. We have discussed many of those exceptions already.

237) In addition, there were matters of consistency, clarification as to definitions, and grammatical and cross-referencing issues that we determined were required to be resolved.

238) The final conditions we consider appropriate to address these matters are set out in Appendix 1 to this decision.

239) A tabulated summary of the changes we have made to the final version of conditions provided by the applicant is contained in Appendix 2 to this decision.

Trevor Robinson (Chair)

Mark St Clair

Darran Humpheson

9 July 2026

APPENDIX 1

CONDITIONS OF CONSENT LUC24/48583

DECISION: 9 July 2026

NEW PLYMOUTH PISTOL CLUB

RESOURCE CONSENT LUC24/48583

Granted under Sections 104, 104D, 106A, 108 and 108AA of the Resource Management Act 1991.

Applicant: New Plymouth Pistol Club Inc

Location: 228 De Havilland Drive & 1206 Devon Road

Legal Description: Lot 1 DP 19854

Status: Part Operative District Plan: Non-complying Activity

Lapse Date: This consent lapses on 6 years from the grant of consent.

Activity: The continued operation of the New Plymouth Pistol Club, being a sport and recreation activity within the General Industrial Zone under the Part Operative District Plan 2025, together with the construction of new facilities (including a two-storey building and acoustic barriers) with all associated Acoustic Mitigation Works, earthworks and management of soil contaminants.

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

PART A: Definitions

In these conditions, unless the context otherwise requires:

i. **Acoustic Mitigation Works** means the physical noise mitigation measures, including acoustic barriers, bunding, container walls, fencing, and any associated works, to be constructed in accordance with the Staging Plans (BTW Company, Drawing 230984.00-03, Sheets ST01–ST06, Revision A, Plot Date: 25/05/2026).

ii. **Composite Noise Rating (CNR)** means the noise metric calculated in accordance with Condition 33, expressed as: CNR = Y + 10 log10 N + 10 log10 T – 25.

iii. **Low Noise Firearm** means a firearm that, when used in combination with a specific range, will achieve a noise level of 71 dB LZpeak log-average or less at the notional boundary of the 1222 Devon Road (Lot 1 DP 18372) secondary dwelling.

iv. **Period of Low Noise** means a period during which any outdoor shooting is restricted to range and firearm combinations which produce a noise level of 71 dB LZpeak log-average or less at the notional boundary of the 1222 Devon Road (Lot 1 DP 18372) secondary dwelling.

v. **LZpeak** means the peak sound pressure level measured with Z-weighting (unweighted), as defined in NZS 6801:2008.

vi. **Management Plan** means Erosion and Sediment Control Plan, Noise Management Plan, or Ongoing Site Management Plan, Site Management Plan or Surface Water and Sediment Monitoring Plan.

vii. **Noise Monitoring Officer** means a person appointed by the Consent Holder who is responsible for implementing the Noise Management Plan, overseeing compliance with the noise conditions of this consent, and maintaining records of noise monitoring and firearm use at the site.

viii. **Noise Monitoring System** means the temporary noise monitoring system required by Condition 34 and the permanent Class 1 sound level meter required by Condition 35.

ix. **Notional Boundary** has the same meaning prescribed in the National Planning Standards, to mean a line 20m from any side of a residential unit or other building used for a noise sensitive activity, or the legal boundary where this is closer to such a building.

x. **Working day** has the same meaning as the term ‘working day’ in section 2 of the Resource Management Act 1991**.**

PART B: Conditions

General Accordance

1. The activity subject to this consent must be as described within the application LUC24/48583 received by the New Plymouth District Council (Council) on 2 August 2024 and further information received on 6 December 2024, 17 December 2024, at the hearing held on 19 - 20 May 2026 and in the Applicant’s reply received on 18 June 2026 and be generally in accordance with the following plans and documents except as amended by the conditions below:

    a. BTW Company, Activity Area/Location Plan, Drawing 230984.02, Sheet GD00, Revision B2, Plot Date: 12/06/2026

b. BTW Company, Existing Site Plan, Drawing 230984.02, Sheet GD01, Revision B2, Plot Date: 12/06/2026

c. BTW Company, Concept Range, Drawing 230984.02, Sheet GD02, Revision B2, Plot Date: 12/06/2026

d. BTW Company, Typical Sections, Drawing 230984.02, Sheet GD03, Revision B2, Plot Date: 12/06/2026

e. BTW Company, Earthworks Plan, Drawing 230984.02, Sheet GD04, Revision B2, Plot Date: 12/06/2026

f. BTW Company, Erosion and Sediment Control Plan, Drawing 230984.02, Sheet GD05, Revision B2, Plot Date: 12/06/2026

g. BTW Company, Planting Plan, Drawing 230984.02, Sheet GD06, Revision B2, Plot Date: 12/06/2026

h. BTW Company, Groundwater Plan and Longsection, Drawing 230984.02, Sheet GD07, Revision B2, Plot Date: 12/06/2026

i. ShedEx, Site Plan, Drawing No. SCH1, Date: 17/07/24

j. ShedEx, Proposed Floor Plan, Drawing No. SCH2, Date: 17/07/24

k. ShedEx, Elevations, Drawing No. SCH3, Date: 17/07/24

l. Red Jacket, Wall Type 1, Job No. 6061, Date: 12/07/24u

m. Red Jacket, Container Wall Section (for 1 Container), Job No. 6061, Date: 12/07/24

n. Red Jacket, Container Wall Elevation (for 1 Container), Job No. 6061, Date: 12/07/24

o. BTW Company, Preliminary Site Investigation, 1220 Devon Road, Bell Block, New Plymouth, Rev A1 - 17/12/2024

p. BTW Company, NPPC Indicative Stormwater Treatment System Plan, 1220 Devon Road, Bell Block, New Plymouth, Drawing 230984-EV-03, Sheet 1, Revision 0, Drawn: 18/05/2026

q. BTW Company, Staging Plans, Drawing 230984.00-03, Sheets ST01-ST06, Revision A, Plot Date: 25/05/2026

   r. Pistol New Zealand: New Plymouth Pistol Club Inc., *Range Standing Orders*, dated 26 July 2024 (and any subsequent amendments approved in accordance with the Arms Act 1983).

2. Where there is any conflict or inconsistency between the plans and documents listed above and the conditions of this consent, the conditions of this consent prevail.

Monitoring Costs

3. Pursuant to Section 36 of the Resource Management Act 1991 the Consent Holder must pay the actual and reasonable costs incurred by the Council when monitoring the conditions of this consent.

Management Plan Certification

4. Prior to submitting or amending any Management Plan for certification, the Consent Holder must seek to consult with Puketapu Hapū. Any comments by Puketapu Hapū must either be reflected in the Management Plan submitted for certification, or the comments must be provided to the Council with reasons why the comments have not been accepted (in whole or in part).

   The Consent Holder must give Puketapu Hapū a minimum of 15 working days from the date the draft Management Plan is provided to respond with any comments. If no comments are received within that timeframe, the Consent Holder may proceed to submit the Management Plan for certification.

5. The Council may certify or decline to certify a Management Plan based on whether the Council considers that the Management Plan meets the objective(s) specified and contain adequate detail to achieve the relevant conditions of the consent to which each plan relates. Should the Council decline to certify a Management Plan it will provide clear reasons why, and the Consent Holder must resubmit a revised Management Plan in accordance with the following process:

   a. Within 10 working days of being notified of the Council's decision to not certify the Management Plan, the Consent Holder must submit a revised Management Plan for certification by the Council.

   b. The Council may certify or decline to certify the revised Management Plan.

6. The Consent Holder must submit a revised Management Plan, repeating the process until the Council certifies the Management Plan.

7. No works may commence until certification is provided. All works and activities must be carried out in accordance with any certified Management Plan.

Earthworks

Erosion and Sediment Control

8. No less than 14 working days before commencing any earthworks on the site, the Consent Holder must submit an Erosion and Sediment Control Plan (**ESCP**) to Council's Monitoring Supervisor for certification. The purpose of the ESCP is to provide the principles, methodologies and procedures to minimise the adverse effects of earthworks and ground disturbance, including the discharge of sediment-laden runoff, on the receiving environment.

9. The Consent Holder must ensure that the erosion and sediment control measures shown in the certified ESCP (based on BTW Company, Drawing 230984.02, Sheet GD05, Revision B1, Plot Date: 12/06/2026) are implemented prior to commencement of the Acoustic Mitigation Works authorised by this consent.

10. The erosion and sediment control measures must be maintained for the full duration of the earthwork activities and must not be removed without prior certification from the Council that the surface is considered stabilised against erosion.

11. Any update to the ESCP must be submitted to the Council's Monitoring Supervisor for certification, in accordance with the certification process in Conditions 4–6, and must not be implemented until certified.

Site Stabilisation

12. For each stage of earthworks identified in the Staging Plans (Drawing 230984.00-03, Sheets ST01-ST06, Revision A), the earthworks area must be stabilised as soon as practicable following completion of that stage, and in all cases within six months, by either being:

    a. Stabilised, filled, recontoured and revegetated to achieve at least 80% ground cover in a manner consistent with the surrounding land; or

    b. Sealed, paved, metalled or built over.

    For avoidance of doubt, the six-month timeframe applies except where a shorter timeframe is specified in a Management Plan that has been certified for the relevant earthworks area, in which case the certified Management Plan timeframe applies.

Cultural Monitoring and Discovery Protocol

13. No less than 14 working days prior to earthworks for the Acoustic Mitigation Works commencing on site, the Consent Holder must advise Puketapu Hapū of the intention to undertake earthworks, so that Puketapu Hapū may provide a monitor for on-site cultural monitoring during earthworks at their discretion.

14. In the event of discovery of kōiwi tangata, wāhi tapu, wāhi taonga, artefacts, or archaeological material, all works must cease immediately, the area must be secured and cordoned off, and no works may recommence until written approval is provided by Puketapu Hapū, Heritage New Zealand Pouhere Taonga, and where relevant, New Zealand Police and the Coroner. A qualified archaeologist must attend the site, and sufficient time must be provided for tikanga, karakia, and cultural processes as determined by Puketapu Hapū.

    Puketapu Hapū representatives must determine the appropriate tikanga and processes relating to:

    a. Handling

    b. Protection

    c. Preservation

    d. Removal; and/or

    e. Reinternment of kōiwi tangata.

Operational Controls and Construction Timing

15. From the date of commencement of this consent, the Consent Holder must operate the site in a controlled manner as follows:

    a. Shooting activity across all ranges must be limited to .22 rimfire firearms, except as provided for in (b) below.

    b. Suppressed centrefire firearms may be used on Range 8.

    c. In relation to Range 1:

        i. Prior to the commencement of the construction works for the Range 1 Acoustic Mitigation Works, Range 1 must not be used more than one day per calendar month.
        ii. Once the Range 1 Acoustic Mitigation Works have commenced, including any removal or demolition of the existing Range 1 bund, shooting must not occur on Range 1 until those works have been completed and verified in accordance with Condition 18.

    These restrictions apply unless and until modified in accordance with Conditions 16 and 18.

16. The operational restrictions in Condition 15 a. and 15 b. apply to each range until the Consent Holder demonstrates, by way of the attended noise measurement campaign required under Condition 37, that:

   a. For Ranges 2 to 8: either the relevant stage of Acoustic Mitigation Works has been completed or temporary mitigation measures are in place, and in either case achieve the following noise level at the notional boundary of the secondary dwelling at 1222 Devon Road (Lot 1 DP 18372):

      i. 81 dB LZpeak log-average when shooting from Ranges 2-8.

   b. For Range 1: the permanent Acoustic Mitigation Works for Range 1 have been completed, and the following noise level at the notional boundary of the secondary dwelling at 1222 Devon Road (Lot 1 DP 18372):

      i. 83 dB LZpeak log-average when shooting from Range 1.

   c. Compliance with the Composite Noise Rating (**CNR**) 90 limit in Condition 33 will be achieved under the proposed operation.

   For the avoidance of doubt:

   d. Temporary mitigation measures for Range 2 to 8 only may include, but are not limited to, limitations on firearm types or ammunition, partial use of ranges, reduced shooting frequency, bunding or temporary acoustic barriers. Temporary mitigation does not apply to Range 1.

   e. Any temporary mitigation measures for Range 2 to 8 only must be

      i. documented by a suitably qualified and experienced acoustic practitioner; and
      ii. submitted to Council for certification that it achieves the noise mitigation required by Condition 16 a. and 16 c.; and
      iii. implemented prior to the attended noise measurement campaign; and
      iv. must be demonstrated through that campaign to achieve the noise limits specified in Condition 16 a. and 16 c..

   f. The operational restrictions in Condition 15 a. and 15 b. cease to apply progressively on a range-by-range basis for Ranges 2 to 8 where the above requirements in Condition 16 a. and 16 c. above are met.

17. If at any time the Consent Holder is unable to demonstrate compliance with the CNR 90 limit in Condition 33, the Consent Holder must immediately restrict shooting activity to that which achieves compliance, including, if necessary, reverting to the operational restrictions specified in Condition 15.

18. Until completion and verification of the permanent Acoustic Mitigation Works for Range 1, the restrictions in Condition 15 c. continue to apply to Range 1. Following completion and verification in accordance with Condition 16 b. of the Acoustic Mitigation Works for Range 1 (Stage/Year 5), the use of Range 1 other than for .22 rimfire use must be limited to no more than two days per calendar month. For the avoidance of doubt, any use of Range 1 following completion of the Acoustic Mitigation Works for Range 1 (Stage/Year 5), is subject to the requirements of Conditions 24-46 inclusive.

Implementation of Acoustic Mitigation Works

19. The Consent Holder must progressively implement the Acoustic Mitigation Works in general accordance with the Staging Plans (BTW Company, Drawing 230984.00-03, Sheets ST01-ST06, Revision A, dated 25-06-2026) including:

    a. Installation of container-based acoustic barriers.

    b. Berm modification and range separation works.

    c. Construction of timber or other acoustic barrier structures.

    d. Any other mitigation measures required to achieve compliance with Conditions 16 and 33.

20. The Range 1 acoustic wall must be set back a minimum distance of 10 m from the true left bank of the unnamed tributary of the Mangaoraka Stream.

21. The construction methodology for the Range 1 acoustic wall must consist of a container wall, sheet piling or combination of both. At least 15 working days prior to the commencement of construction of the Range 1 acoustic wall, the Consent Holder must provide to the Council's Monitoring Supervisor detailed design plans showing the location, dimensions and composition of the acoustic wall. The plans must be certified by a suitably qualified and experienced acoustic practitioner as demonstrating that the acoustic wall is capable of achieving a log-average noise level not exceeding 83 dB LZpeak when shooting from Range 1, at the notional boundary of the secondary dwelling at 1222 Devon Road (Lot 1 DP 18372).

22. All Acoustic Mitigation Works must be completed within 6 years of the date of grant of this consent.

23. Within 3 months of the commencement of this consent, the Consent Holder must provide to the Council's Monitoring Supervisor a construction and implementation programme outlining the sequencing and indicative timeframes for completion of the Acoustic Mitigation Works.

Noise Management

Hours of Operation

24. Firearms must not be discharged at the Club outside the hours of 0900 to 1900 hours.

25. Firearms must not be discharged on the following days / public holidays:

    a. Good Friday.

    b. ANZAC Day (25 April).

    c. Christmas Eve, Christmas Day and Boxing Day.

Low Noise Activity

26. Periods of low noise must be maintained between 0900-1200 hours Monday to Sunday.

27. Any firearm used at the Club, excluding Police and AOS firearms, must be certified by the Noise Monitoring Officer prior to use as either low noise or other. Certification must involve the measurement of noise while the firearm is discharged from the normal shooting position(s) on each range. For the purposes of this condition, certification must be by reference to the firearm's type (centrefire or rimfire) and serial number. The Consent Holder must keep an accurate record of the daily firearm usage (shooting) on each range by retaining certificate information that includes firearm type and noise measurement, for at least the previous month, and make that information available to the Council within 10 working days upon request.

Events

28. Up to four times per year, the Consent Holder may hold a two-day event where the low noise restriction in Condition 26 does not apply. These events must be published on the Club website at least one month in advance. The occupiers of 1222 Devon Road (Lot 1 DP 18372) must be notified by email at least one month in advance. Records of notification must be provided to the Council's Monitoring Supervisor within five working days of any written (including email) Council request.

29. Up to two times per calendar year the Consent Holder may hold a three-day event where the CNR restriction in Condition 33 and the low noise restriction in Condition 26 do not apply.

    These events must be published on the Club website at least one month in advance. The occupiers of 1222 Devon Road (Lot 1 DP 18372) must be notified by email at least one month in advance. Records of notification must be provided to the Council's Monitoring Supervisor within five working days of any written (including email) Council request.

    Advice Note: *Three-day events may be held during the staged development of Acoustic Mitigation Works. Condition 15 applies to any ranges where Acoustic Mitigation Works have not been completed.*

30. In relation to any three-day event for which the CNR restriction does not apply under Condition 29, firearms must not be discharged at the Club for a continuous period of three days:

    a. immediately prior to the commencement of the event other than by persons entered in the event; and

    b. commencing on the day following the final day of the event.

    For the avoidance of doubt, this restriction applies to all Police and AOS use.

New Zealand Police and Armed Offenders Squad Use

31. Police and AOS use of the facility must not exceed 52 days per calendar year in total.

32. The Consent Holder must notify the Council's Monitoring Supervisor by email of all Police or AOS shooting dates and times, except in the case of Police Reintegration Programme requirements. Such notice must be provided at the time a booking is confirmed and be sent to:
    a) Council's Monitoring Supervisor at least 10 days in advance of that use: and
    b) The occupier of 1222 Devon Road (Lot 1 DP 18372) by email at least 10 days in advance of that use.

Noise Limits, Monitoring and Verification

33. Firearm noise generated at the Club must not exceed a Composite Noise Rating (**CNR**) of 90 at any point within the notional boundary of any residential dwellings at 1209 Devon Road (Lot 1 DP 16176) and 1222 Devon Road (Lot 1 DP 18372), on

any day, except for events provided for in Condition 29. Noise from site activity must be measured in accordance with NZS 6801:2008. CNR is to be calculated as follows:

$CNR = Y + 10\log_{10} N + 10\log_{10} T - 25$

Where:

- *Y is the log-average LZpeak level for all recorded shots over the day received at the notional boundary of any dwelling*

- *N is the number of shots over the day detected by noise monitoring system required by Conditions 34 and 35*

- *T is the proportion of the permitted shooting period represented by the time between the first and last shot fired on the day as detected by the noise monitoring system required by Conditions 34 and 35*

34. Prior to the commencement of this consent, the Consent Holder must install and operate a temporary noise monitoring system capable of measuring and recording gunshot noise levels for the purpose of verifying compliance with Condition 33. The temporary noise monitoring system must be in place until the permanent Class 1 sound level meter required in Condition 35 is operational.

    For the purpose of verifying compliance with Condition 33 while the temporary noise monitoring system is in use, the parameters Y, N and T may be derived from the recorded data obtained from that system, including through post-processing of recorded data to identify individual gunshots and calculate the required components of the CNR.

    The Consent Holder must provide to the Council's Monitoring Supervisor, on a monthly basis from the date of installation until completion of the Acoustic Mitigation Works, a log of gunshots recorded over that month, including the number of shots fired on each day.

    The system must also be capable of retaining a continuous record of at least the previous 14 days, which must be made available to the Council immediately upon request.

35. Within 3 months of the date of grant of this consent, the Consent Holder must install and maintain a permanent Class 1 sound level meter (capable of capturing real time data in accordance with NZS 6801:2008) and associated infrastructure at a location representative of the notional boundary of the secondary dwelling at 1222 Devon Road (Lot 1 DP 18372).

The Consent Holder must provide to the Council's Monitoring Supervisor, on a monthly basis from the date of installation until 12 months after completion of the Acoustic Mitigation Works, a log of gunshots recorded over that month, including the number of shots fired on each day.

The system must also be capable of retaining a continuous record of at least the previous 14 days, which must be made available to the Council immediately upon request.

36. The noise monitoring systems required by Conditions 34 and 35 must be located at the notional boundary of the secondary dwelling at 1222 Devon Road (Lot 1 DP 18372), or at another location that is representative of the property, as determined by a suitably qualified and experienced acoustic practitioner and agreed in writing by Council.

37. Within 3 months of the completion of each stage of the Acoustic Mitigation Works, the Consent Holder must engage a suitably qualified and experienced acoustic practitioner who must:

    a. Undertake an attended noise measurement campaign to determine the effectiveness of the Acoustic Mitigation Works (required under Condition 19), and a sample of the LZpeak and CNR noise levels being received at the notional boundaries of dwellings at the following receivers:

        i. 1209 Devon Road (Lot 1 DP 16176)

        ii. 1222 Devon Road (Lot 1 DP 18372)

    b. If necessary, make any recommendations for changes to the Noise Management Plan (**NMP**) in Condition 44 to ensure the CNR 90 limit continues to be met.

    c. The Consent Holder must provide written confirmation to Council's Monitoring Supervisor identifying the ranges assessed and whether they have been demonstrated to comply with Condition 16, within five working days of receipt of the noise measurement campaign results.

    d. Should the suitably qualified and experienced acoustic practitioner make recommendations for changes to the NMP:

        i. the Consent Holder must, within 15 working days, submit to Council's Monitoring Supervisor a revised NMP containing the practitioner's suggested amendments, or reasons why the suggested amendments have not been accepted, in which case alternative amendments must be submitted.

ii. The certification process in Conditions 4-6 must be followed prior to the range being considered to comply with Condition 33.

Advice Note: *Compliance with this condition may be staged for different ranges, as anticipated by Condition 16. Condition 15 applies to each range until such time as it has been determined as compliant with Condition 16 by a suitably qualified and experienced acoustic practitioner.*

Range Management

38. The Consent Holder must install and maintain a sign within the clubroom building that displays, in real time, the number of shots fired each day, as recorded by the permanent sound level monitoring system required by Condition 35.

    For avoidance of doubt, this condition requirement does not apply to the temporary noise monitoring system under Condition 34.

39. The total number of shots fired per day across all outdoor ranges must not exceed:

    a. Monday-Saturday: 2,700.

    b. Sunday: 3,500.

    Exception – AOS:
    The limit in (a) may be exceeded on one (1) day per calendar month when AOS training occurs, provided the total number of shots fired on that day does not exceed 3,500 shots.

40. The Consent Holder must on a continuous basis maintain records of the number of visitors to the site per day and the purpose of their visit, and a copy of such records must be provided to Council's Monitoring Supervisor within five working days of any written (including email) Council request, except that personal details (persons' names) need not be provided.

41. When the number of recorded shots fired in a day reaches:

    a. 2,000 on Monday–Saturday; or

    b. 2,500 on Sunday,

a warning notification must be sent to the Noise Monitoring Officer via the Class 1 sound level meter required by Condition 35, and the Noise Monitoring Officer must ensure that the limits in Condition 39 are not exceeded for that day.

For the avoidance of doubt, on the one (1) day per calendar month when the AOS exception in Condition 39 applies, the warning notification under this condition must be triggered at 2,500 shots.

42. When the number of shots fired in a day reaches:

    a. 2,700 on Monday–Saturday; or

    b. 3,500 on Sunday,

    a notification must be sent via the Class 1 sound level meter required by Condition 35 to the Noise Monitoring Officer and Council's Monitoring Supervisor.

    An on-site warning system must also be triggered at the same time, alerting users of the shooting ranges that the daily shot limit has been reached.

    The Noise Monitoring Officer must immediately require all shooting of firearms to cease, and shooting must not recommence until the following day.

    For the avoidance of doubt, on the one (1) day per calendar month when the AOS exception in Condition 39 applies, the warning notification under this condition must be triggered at 3,500 shots.

43. Upon the CNR reaching 88 on any day, a warning notification must be sent to the Noise Monitoring Officer and Council's Monitoring Supervisor, *via* the Class 1 sound level meter system required by Condition 35, and the Noise Monitoring Officer must ensure that CNR 90 is not exceeded for that day.

Noise Management Plan

44. A NMP must be prepared for the site by a suitably qualified and experienced acoustic practitioner and be submitted to Council's Monitoring Supervisor for certification within 3 months of the date of the grant of this consent. The purpose of the NMP is to establish the procedures, controls, and monitoring measures necessary to ensure that noise effects generated by the activity are appropriately managed, and that compliance with the noise limits and operational restrictions set out in this consent is achieved on an ongoing basis.

45. The NMP must contain, but not be limited to:

a. Processes to ensure that those who discharge firearms on the site are familiar with and required to abide by the procedures set down in the NMP.

b. Processes to ensure the CNR 90 limit is complied with, including during the period when the Acoustic Mitigation Works are only partially complete.

c. Processes to ensure the Acoustic Mitigation Works, once complete, are inspected and kept in adequate functional condition.

d. Details around how the noise monitoring required by Condition 35 is to be conducted.

e. Details around how the Consent Holder will regulate the level of activity at the Club day-to-day, to ensure the CNR 90 limit is not exceeded.

f. Details around the permanent Class 1 sound level meter which is to be installed, and who will be responsible for its upkeep.

g. The requirement for a Noise Monitoring Officer responsible for implementation of the NMP, and details of their duties, including the keeping of noise log documentation and submission to Council upon request.

h. Processes relating to community relations and communications, and periodic review of the NMP.

i. Procedure for maintaining a register of complaints received and a record of the Club's responses and any remedial actions undertaken.

46. Any amendments to the NMP must be submitted to Council's Monitoring Supervisor for certification, in accordance with the certification process in Conditions 4–6, and must not be implemented until certified.

Entrance Corridor Planting

47. The existing planting strips adjoining Devon Road and the site entrance as shown in the Planting Plan (BTW Company, Drawing 230984.02, Sheet GD06, Revision B2, Plot Date: 12/06/2026) must be retained and maintained. Any vegetation within this planting strip that dies, becomes diseased, or is removed must be replaced within the next planting season (May–September) with plant species of similar height, density, and character to those removed, to the satisfaction of Council.

Riparian Planting

48. The Consent Holder must establish and maintain a minimum 10 m wide riparian planting margin along both sides of the unnamed tributary (or to the legal boundary

where less than 10 m) as shown in the Planting Plan (BTW Company, Drawing 230984.02, Sheet GD06, Revision B1, Plot Date: 05/03/2026).

49. Planting and any associated fencing within the riparian planting margin must be established in the first planting season (May–October) following the completion of Range 1 bund removal works in Stage/Year 1.

50. Planting within the riparian planting margin should be undertaken using eco-sourced indigenous species appropriate to the Coastal and Semi-Coastal Bioclimatic Zone, consistent with *Restoration Planting in Taranaki: A Guide to the* Egmont *Ecological District*. Where practical, planting should include species with recognised bioremediation capability for stabilising or uptaking lead and other metals, including indigenous species with phytoremediation potential.

51. The riparian planting margin must be maintained for a minimum 5-year period from establishment or until canopy closure is achieved, whichever occurs first. Maintenance must include:

    a. Regular weed control.

    b. Pest animal control where required.

    c. Infill planting to maintain densities.

    d. Post-storm inspections and remedial planting if necessary.

52. Any plants within the riparian planting margin that die, become diseased, fail to establish, or are removed must be replaced in the next planting season (May–October) with the same or a similar species.

Contaminated Land

Site Management Plan

53. A Site Management Plan (**SMP**) must be prepared by a suitably qualified and experienced practitioner in accordance with the current edition of the Ministry for Environment Contaminated Land Management Guidelines No.1 – Reporting on Contaminated Sites in New Zealand. The SMP must be submitted to Council's Monitoring Supervisor for certification at least 10 working days prior to commencing soil disturbance.

54. The purpose of the SMP is to detail the procedures, controls and contingency measures that must be implemented for the duration of the works to protect human health and the environment by ensuring exposure pathways are minimised for the

duration of the soil disturbance works authorised by this consent. The SMP must include, but not be limited to:

a. Erosion and sediment controls preventing migration of contaminants to surface water or groundwater.

b. Environmental controls for stockpiling of soil.

c. Procedures to minimise on-site contaminant dispersal.

d. Procedures for the safe handling, decontamination, and management of tires.

e. Unexpected contamination discovery protocols.

f. Transport and disposal procedures for any material transported off-site.

g. Methodology of any soil management on-site in creating any new bund.

h. Soil testing requirements as a result of unexpected discoveries or off-site soil disposal.

i. Worker health and safety measures, including PPE, hygiene, and training for handling contaminated materials.

55. Soil disturbance works must be undertaken in accordance with the approved SMP. The procedures, controls and contingency measures set out in the SMP must be implemented for the duration of the soil disturbance works.

56. Any amendments to the SMP must be submitted to Council's Monitoring Supervisor for certification, in accordance with the certification process in Conditions 4–6, and must not be implemented until certified.

57. All material removed from the site in the course of the soil disturbance works must be disposed of to a suitably licensed facility authorised for receipt of material of that kind.

58. If unexpected conditions, such as staining, odorous material, are encountered during the soil disturbance works; work in that area must cease and Council's Monitoring Supervisor must be notified. Unexpected contamination and contingency measures must be overseen and assessed by a suitably qualified and experienced practitioner.

Ongoing Site Management Plan

59. An Ongoing Site Management Plan (**OSMP**) must be prepared by a suitably qualified and experienced practitioner in accordance with the current edition of the Ministry for

Environment Contaminated Land Management Guidelines No.1 – Reporting on Contaminated Sites in New Zealand to control management of relocated contaminated soil (including the fill area to the west of Range 7) and future activities within the activity area. The purpose of the OSMP is to provide for the ongoing management of contaminated soils remaining on site following completion of Acoustic Mitigation Works, including controls on future soil disturbance, site use (including lead management measures), and worker exposure, to ensure that risks to human health and the environment are appropriately avoided, remedied, or mitigated.

60. The OSMP must be submitted to Council's Monitoring Supervisor for certification within 20 days of the completion of the soil disturbance works.

61. Any amendments to the OSMP must be submitted to the Council's Monitoring Supervisor for certification, in accordance with the certification process in Conditions 4–6, and must not be implemented until certified.

Work Summary Report

62. Within three months of the completion of the soil disturbance works, a work summary report must be provided to the Council's Monitoring Supervisor which must include:

    a. The approximate location and dimensions of soil disturbance carried out including a relevant site plan and photographs.

    b. Records of any unexpected discoveries encountered during the works and the actions taken to address them.

    c. Confirmation that validation testing, soil sampling or material sampling has been undertaken and the results thereof.

    d. Disposal dockets for any soil or materials removed from site.

    e. Confirmation that the works were carried out in accordance with the approved SMP.

    f. Recommendations or requirements for ongoing monitoring or management.

Monitoring

63. A Surface Water and Sediment Monitoring Plan (**SWSMP**) must be prepared by a suitably qualified and experienced practitioner and be submitted to Council's Monitoring Supervisor for certification at least 10 working days prior to the commencement of soil disturbance. The purpose of the SWSMP is to ensure potential adverse effects on surface water and the unnamed tributary of the

Mangaoraka Stream arising from soil disturbance activity associated with Acoustic Mitigation Works, are appropriately avoided, remedied, or mitigated.

64. The SWSMP must include, but not be limited to:

    a. Sampling locations (upstream, downstream, and adjacent to the Range 1 bund area).

    b. Parameters including, at minimum: lead, copper, zinc, arsenic, antimony, pH, suspended sediment, and any other contaminants of concern identified in prior investigations.

    c. Outline protocols for stream sediment sampling and analysis.

    d. Frequency of monitoring:

        i. During earthworks: at least monthly and following defined rainfall trigger events.

        ii. Post-earthworks: quarterly for a minimum of 12 months following completion of Acoustic Mitigation Works.

    e. Provision for Puketapu Hapū to provide a monitor for on-site cultural monitoring in parallel with the monitoring provided for under Condition 64 d. above at their discretion.

65. All monitoring results must be provided to Council's Monitoring Supervisor and Puketapu Hapū on a quarterly basis for the duration of the monitoring period.

66. Trigger values must be based on the Australian and New Zealand Guidelines for Fresh & Marine Water Quality (**ANZG**) 95% freshwater protection. Any exceedance of trigger values must be reported to Council's Monitoring Supervisor within 48 hours (to allow for laboratory confirmation of the validated sample result), to include:

    a. Likely cause(s) of the exceedance.

    b. Immediate mitigation actions undertaken to avoid or minimise further contaminant discharges.

    c. Proposed corrective actions to avoid recurrence of the exceedance.

    Where an exceedance of trigger values occurs, the Consent Holder must:

    d. Undertake an investigation into the cause of the exceedance, including:

    i. Comparison with all prior monitoring results to identify any trends in the data;

    ii. Inspection of erosion and sediment controls and stormwater management systems;

    iii. Inspection of any relevant areas of soil disturbance;

e. Implement appropriate corrective actions as soon as practicable, which may include, but are not limited to:

    i. Maintenance, repair or upgrade of erosion and sediment control measures;

    ii. Modification of earthworks practices, staging, or site stabilisation methods;

    iii. Improvement to stormwater treatment or containment measures;

f. Undertake additional monitoring, where necessary, to confirm the effectiveness of the corrective actions implemented; and

g. Provide a written update to Council's Monitoring Supervisor within 20 working days of the exceedance outlining the outcomes of the investigation, actions taken, and any further measures required to ensure ongoing compliance.

67. Any amendment to the SWSMP must be submitted to Council's Monitoring Supervisor for certification, in accordance with the certification process in Conditions 4–6, and must not be implemented until certified.

Stormwater Treatment System

68. Stormwater runoff from the site must be managed to avoid, remedy, or mitigate the discharge of contaminants, including heavy metals, to the unnamed tributary of the Mangaoraka Stream.

69. As part of Stage/Year 1 the Consent Holder must;
    a. design and install engineered stormwater treatment systems; and
    b. operate and maintain those systems;

    in order to treat stormwater runoff from areas of soil disturbance and contaminated soils, to reduce concentrations of heavy metals prior to discharge as required to achieve compliance with ANZG 95% freshwater protection values.

70. Any exceedance of the ANZG trigger values referred to in Condition 66 attributable to stormwater discharges from the site must be managed in accordance with Condition 66.

Advice note: *For the avoidance of doubt, Condition 66(e)(iii) is the relevant corrective action for stormwater treatment systems.*

71. All stormwater treatment systems must be operated and maintained for the duration of the activity to ensure ongoing effectiveness in reducing heavy metal concentrations in stormwater prior to discharge.

Review Condition

72. Pursuant to section 128(1) of the Resource Management Act 1991, the Council may serve notice of its intention to review the conditions of this consent at any time, for any of the following purposes:

    a. To address any adverse effects on the environment arising from the exercise of this consent that were not foreseen at the time of granting the consent, including (but not limited to) noise and off-site ricochet effects; or

    b. To address any inaccuracies contained in the information provided with the application that materially influenced the decision to grant consent, and where, as a result, it is necessary to impose more appropriate conditions.

Appendix 2 – Table of Condition Changes by Panel

Cond # From Reply	**Cond # From Decision Appendix 1**	**Change from Reply Version, modified in accordance with 2 July memorandum**
	Granted under	Removed reference to section 95A, 95B, 95D, 95E as this has already occurred. Added sections 108 and 108AA.
	Lapse	Inserted lapse date formerly in advice note. Deleted reference to the ability to extend the consent as Section 125 provides for this.
	Activity	Removed retrospective authorisation as this component of the application not granted.
	Definitions	Acoustic Mitigation Works - Corrected plot date from 26/05/26 to 25/05/26 (and elsewhere).
	Definitions	Low Noise Firearm – Removed ambiguity in standard required as per decision.
	Definitions	Period of Low Noise – Clarify that restriction applies for defined period.
	Definitions	Added definition of ‘management plans’.
	Definitions	Added definition of ‘working days’ to align with RMA.
1	1	Added reference to material received in Applicant’s reply.
5	5	Inserted clarification of basis for certification (or declining certification).
6	6	Removed provision for ‘arbitration’ as to certification in line with Environment Court decision in *Woodstock Quarries v CRC* [2026] NZEnvC 128 at [222].
7	7	Clarified that <u>all</u> works and <u>activities</u> must carried out accordance with management plans.

Appendix 2 – Table of Condition Changes by Panel

Cond # From Reply	Cond # From Decision Appendix 1	Change from Reply Version, modified in accordance with 2 July memorandum
		While the planners agreed in their JWS that "general" be added before accordance, we disagree. General accordance is in appropriate in terms of Condition 1. However, management plans are the way in which a consent holder demonstrates how the conditions are to be achieved.
15	15	Clarified extent of interim activities on Range 1.
16	16	Amended to state that temporary mitigation measures only available for Ranges 2-8, in line with decision. Added verification measures for temporary mitigation.
18	18	Clarified when Range 1 restrictions apply in line with decision.
24	24	Amended to hours of operation in line with decision.
25	26	Amended low noise hours and extent in line with decision.
26	27	Amended to use defined term (Noise Monitoring Officer) in this and subsequent conditions.
29	30	Remove discretion as to when no shooting to apply before and after 3 day events and restricting shooting for 3 days before any such event to only persons entered in said event, in line with decision.
31	32	Reformatted and clarified Police Reintegration Programme exception notification requirements.
33	34	Clarified that records from temporary noise monitoring system must be retained and provided to Council.
34 and 35	35 and 36	Clarified nearest residential receiver is secondary residence ats 1222 Devon Road (Lot 1 DP 18372).
50	51	Clarify when 5 year period runs from.

Cond # From Reply	Cond # From Decision Appendix 1	Change from Reply Version, modified in accordance with 2 July memorandum
61 c.	62 c.	Clarified that validation testing to be undertaken and results to be provided to Council.
63 a.	64 a.	Clarified that sampling locations related to Range 1 bund area.
N/A	64 e.	Inserted ability for Puketapu Hapū to provide a person for cultural monitoring at their discretion in line with decision and Condition 13.
68	69	Clarifiied that stormwater treatment applies to Stage/Year1, what it applies to and purpose.
71	72	Clarified that review may occur at any time, and with specific reference to noise and off-site ricochet effects, in line with decision.