

Minutes of the Mount Maunganui Air Quality Working Party Zoom Hui

Tuesday 17 May 2022

Chair: Graeme Marshall

In attendance: Commissioner Shadrach Rolleston, Commissioner Bill Wasley (TCC); Beau Cowdrey-Woods (Ballance Agri-nutrients); Joey McKenzie (Port of Tauranga); Craig Duxfield, Tony Clark, Jodi Langbien (Lawter); Emma Jones, Heidi Hughes, Rosie Kelway (Clear the Air Mt Maunganui); Dr Phil Shoemack, Chloe Corbett (BOP DHB); Cat Lochore (Toi Te Ora); Kate Barry-Piceno, Nicole Smith (TMFAG); Hayden Henry (Ngāi Tukairangi); Mark Hollands (Waste Management)

Support: Sarah Omundsen, Reece Irving, Sanjana France (BoPRC)

Guest Speakers: Reuben Fraser, Marlene Bosch, Alex Miller (BoPRC); Janine Speedy, Dylan Makgill (TCC); Dr Phil Shoemack (DHB)

Apologies: Stephanie Frame, Ashleigh Brown (MfE); Ashley Hart (Lawter); Barbara Dempsey, Steve Pearce (TCC); Lindsey Webber, Kiri Peita (WBoP PHO); Dan Kneebone (Port of Tauranga); Pia Bennett (Ngai Te Rangi runanga); Dominic Adams (Ballance Agri-nutrients); Joel Ngatuere (Whareroa); Councillor Matemoana McDonald, Councillor Paula Thompson (BoPRC); Julien Huteau (Ecocific); Aroha Kopae (Ngati Kuku)

No response: Dudley Clemens (J. Swap Contractors)

Meeting Goals - Gather information, maintain momentum, get answers and drive actions. Get clarity and visibility on issues and actions; hold those responsible for air quality to account. Continue to seek ways to work collaboratively.

Opening Karakia – Hayden Henry

Welcome, new faces, meeting over-view – Graeme Marshall

General Business

Formalities

Minutes from the previous meeting accepted as an accurate account.

Sarah Omundsen gave an overview of the Plan on a Page work plan for 2022, outlining the expanded content of the short-, medium- and long-term projects and proposed agenda topics and presentations scheduled for future meetings. She advised that timeframes will be included. No suggestions for further changes were provided.

New web portal for Working Party members to access all hui documents and presentations:

BoPRC have created a new page on the Regional Council's website for all agendas, presentations, reports and other relevant Air Quality Working Party hui information. Please view the web portal by copying this link to your browser:

www.boprc.govt.nz/mount-industrial-air-quality-working-party

Reporting Template: Each member group gave a verbal update on their updates provided in the Working Party Reporting Template. Mana whenua will give a fuller update and Clear the Air Community Group will present on their lived experience at the next hui.

Presentation (attached as appendix) – **Dr Phil Shoemack – The future of Health NZ from 1 July 2022 and Toi Te Ora’s role in assessing air quality impacts on health.**

Agencies should be doing everything possible to minimise the discharge of pollutants to air. International evidence of the impact of air quality on human health is clear. In the USA annually an estimated 100,000 premature deaths are related to poor air quality. NZ does not have the population sample that would allow this type of study to be undertaken locally.

Air pollution impacts respiratory and cardiac health. We need to be continuously working towards improving air quality right across NZ, being much better than just meeting National Standards and guideline limits. Land use planning and engineering can provide solutions to improve air quality and ensure it does not continue to impact on human health.

It is estimated that annually in New Zealand 1300 people prematurely die and there are 1.5 million restricted activity days with several hundred additional people sick due to the impacts of poor air quality (HAPINZ report).

A continued focus in the Bay of Plenty region on growth as well as increasing industrial development is not going to improve air quality.

Not all PM10’s are equal – the health impacts vary depending on the source of PM10, i.e. combustion PM10 generally has a greater health impact than natural sources like salt.

Work is being undertaken to understand the impacts of air quality on local populations. This has started based on pM10 impacts on the census population in the Ōmanu Ward and will be replicated across wider contaminants.

Discharges to air can disseminate quickly and widely depending on meteorological conditions. Air quality can be affected by a discharge occurring a long way from the affected area.

We have to look beyond only consented industrial emissions. There are many other emission sources and transport emissions which are permitted are likely to far outweigh industrial emissions in the Mount Industrial area.

Q & A

Q: Did Toi Te Ora undertake to raise awareness amongst GP’s if people presented with air quality health related issues, and what was the outcome?

A: This was done and there have been no reports from GP’s that patients have presented with conditions related to poor air quality.

Q: Have the contaminants in the airshed been defined as well as the health effects of each contaminant?

A: There are a number of reports that address what contaminants there are and the health impacts of these, such as the City Emissions Inventory and the Air Quality state of the environment report. These reports will be uploaded onto the website.

Q: Is it a health issue or an RMA issue? Hapū want Toi Te Ora to assess the health issues and doctors need to report on this however this does not seem to happen.

A: The DHB agrees that appropriate diagnosis is vitally important irrespective of the cause. Dr Shoemack will follow up with the PHO as to GP awareness and report back.

Presentations (attached as appendices): TCC and BOPRC Consents and Compliance updates

Staff from both TCC and BoPRC provided overviews of the regional and district consenting matters relevant to the Mount Industrial Airshed, as well as updates on current consents and compliance action.

All current industrial consents being processed by BoPRC are on further information requests. It is unlikely any of these consents will have been granted by the time of the next Air Quality Working Party meeting in August. Activity in industrially zoned land is beyond the control of Regional Council if it complies with permitted or consented conditions. These conditions include best practice and latest technology, and clauses can be included in consents for review based on legislative changes.

Q&A

Q: Is there a difference in consenting industrial and heavy industrial activity.

A: No

Q: Consents on the table now before council are for heavy industries. How do we have a managed retreat of these industries now they are up for renewal. Can't the consenting process cause these industries to move out of the Mount – can't we have a vision that heavy industries are not part of this city's future? What process can be put in place now to get these industries out?

A: TCC will come back to the next meeting with a long-term view. This will be a clear vision around the Mount Industrial area. There needs to be a plan in place that is based on working with tangata whenua, community groups, government agencies and industry.

Q: When you buy property in a rural zone, LIM reports include information on things to expect when living in a rural zone (e.g. odours etc). It would be helpful to have this information on the LIM reports of residential areas adjacent to industrial areas, to manage expectations around light, noise, odours, traffic etc. Can this be done?

A: TCC will assess the feasibility of including this information on their LIM reports and report back to the group.

Q: How can tangata whenua have cultural inputs into pre-RMA consents when cultural consultation was not required. The Tiriti o Waitangi must be taken into account when processing consents.

A: Most pre-RMA consents were no more than a 35-year term, and these are all coming up for renewals in the next 5 years when cultural assessment will be required.

Status of Actions from previous meeting:

Action	Status
Create and circulate an overview of all levels of air quality monitoring currently undertaken	Completed and circulated
Investigate and report on air quality monitoring undertaken in similar port cities around New Zealand and over-seas	Completed and circulated
Give ownership to actions that arose from the break-out groups as identified in Key Points above	Completed

Actions arising from this meeting

Action	Agency
Presentation carried over – Clear the Air lived experience for residents	Clear the Air
Presentation carried over – Update on progress Managed Retreat project	Mana whenua
Update carried over – Key presentations from CASANZ odour conference	BoPRC
Presentation – how do the Health Act and RMA work to reduce health impacts from exposure to poor air quality	BoPRC, TCC, DHB
Update – The implications of attaching a notice to LIMs regarding residential housing in Mt Maunganui being in proximity to the Mt Industrial area	TCC
Presentation – Long term zoning and planning view for the industrial area	TCC
Upload - Tauranga Emissions Inventory and the Air Quality state of the environment reports to the MAQWP website.	BOPRC
Presentation – The long-term view and vision for the Mt Industrial Area	TCC
Provide an update to the Working Party on the use of methyl bromide at the Port of Tauranga.	BoPRC

Meeting closed with karakia at 11:45am.

Appendix 1 – Presentation – DHB

Public Health Update

Dr Phil Shoemack
Medical Officer of Health

17 May, 2022





TOI TE ORA
PUBLIC HEALTH

*Lifelong
health + wellbeing
for all*

Health Service reform

-Review of existing system conducted 2018-20

-In 2021 Minister of Health announced significant changes including:

- Health NZ to replace the 20 DHBs
- Māori Health Authority sitting alongside Health NZ
- Public Health Agency, as a policy unit within the Ministry of Health
- Public health services will be part of Health NZ
- Localities



How Health New Zealand and the Māori Health Authority work together

TŌ TĀTOU WAKA HOURUA OUR DOUBLE-HULLED WAKA

The waka hourua concept in a health context is not new. We acknowledge those other waka whose bows continue to cut through waves in these waters. The fundamental premise of the analogy is to bring together two groups and draw equally on the skills, talents, attributes and leadership of each to drive improved outcomes for our communities. Our waka hourua seeks to drive transformational change for Aotearoa – New Zealand's health system to support better outcomes and wellbeing for all of our people – whakahiko i te oranga whānau.

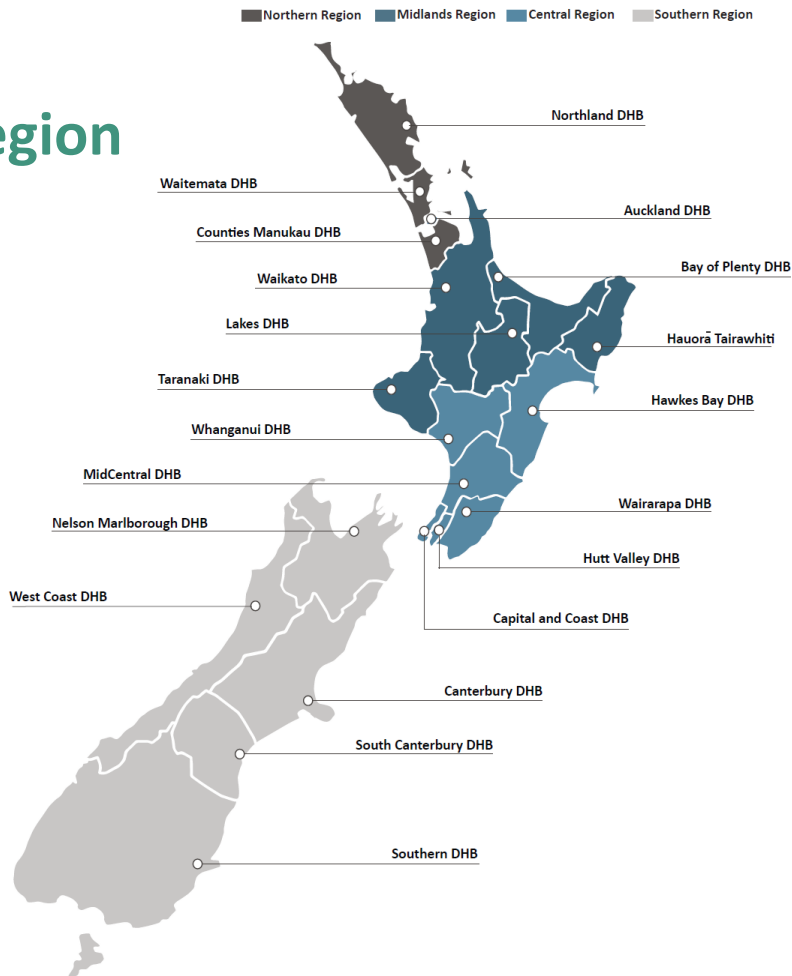


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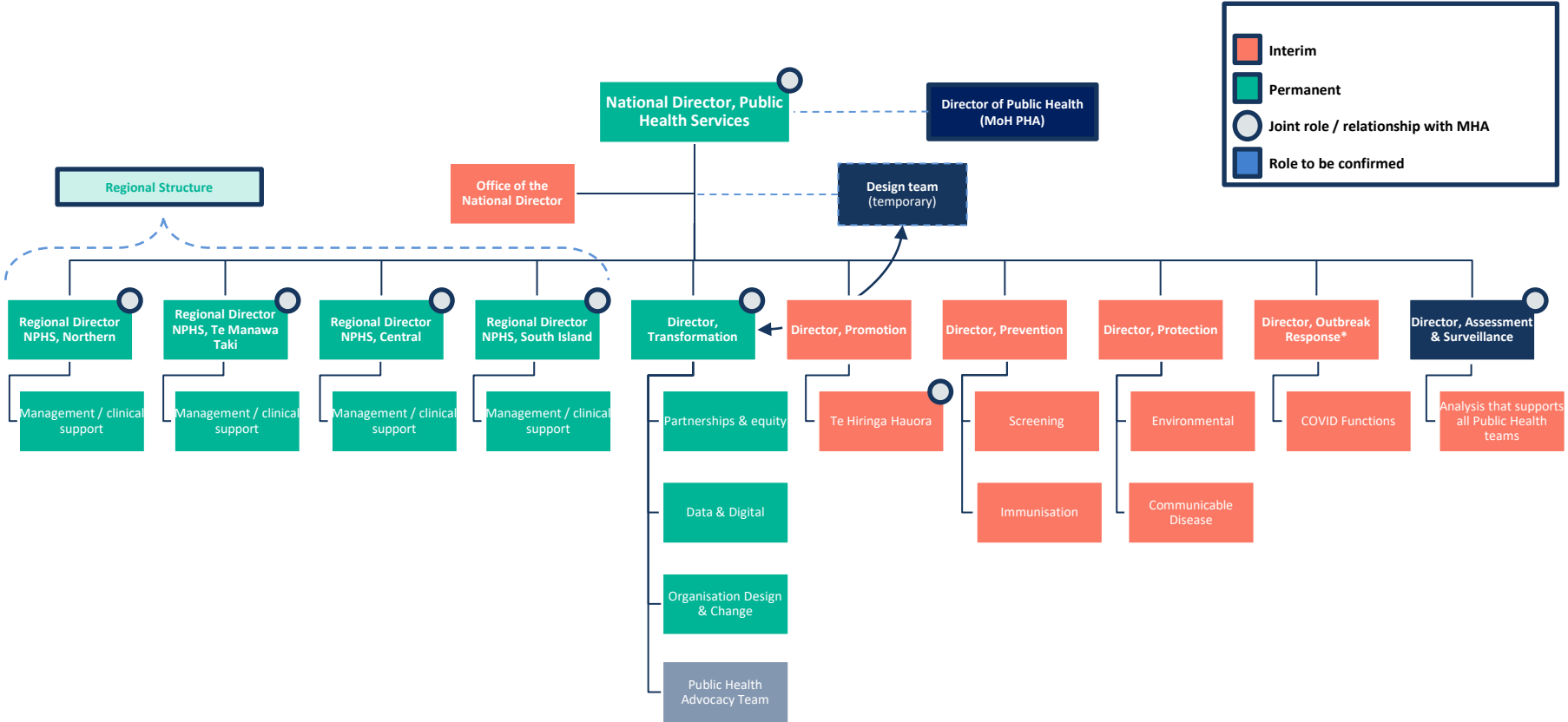
OUR WAY FOWARD

Te Manawa Taki region


- Taranaki
- Waikato
- Lakes
- Bay of Plenty
- Tairawhiti



National Public Health Service



*Emergency Management function transfer to be confirmed



Air Quality

Mount Maunganui Air Quality

- Medical officer of health receives notifications of air quality-related ill-health from health professionals and the public
- Investigates and notifies regulatory agency regarding health issues (for air quality this is primarily BOPRC)
- Advocates for improved protection of health



Public health perspective

- The health of people in the Mount area will be affected by local air quality
- There is no such thing as a “No Effect” safe level
- NZ standards and guidelines are derived from international evidence on health effects of air pollution on large populations, along with some NZ data (HAPINZ)
- National Standards are maximum levels – air quality below the maxima still has measurable health impact



Quantifying local health impacts

Toi Te Ora is working with national air quality experts to estimate the health impact of current air quality including:

- Number of excess deaths
- Additional hospital admissions
- Extra presentations for health care
- Restricted Activity days





TOI TE ORA
PUBLIC HEALTH

Bay of Plenty + Lakes Districts

For further information:

0800 221 555

enquiries@toiteora.govt.nz

www.toiteora.govt.nz

Appendix 2 – Presentations – Tauranga City Council and Bay of Plenty Regional Council Consents and Compliance



Mount Maunganui Air Quality Working Party

17 May 2022



Territorial Authority responsibilities

- The City Plan manages land use and subdivision.
- Under the RMA, resource consents granted for most land use activities are enduring, without an expiry date.
- Existing use rights are a consideration in terms of a local authority's duty to enforce a plan. A person who proves an existing use right applies has the protections set out in the RMA.
- Opportunity for the RM reforms to review this approach.

City Plan Review

- Last year Council resolved:
 - To put the City Plan Review on hold awaiting more direction on the Resource Management Reforms.
 - To progress with the priority plan changes and projects

Project for Mount Industrial Area

- Developing an approach to a broad suite of Mount industrial issues
- Will focus on coordination of existing and new projects
- Develop a long-term vision and plan, with action plan for delivery
- Future Industrial Land Use Study
 - Led by SmartGrowth
 - To be delivered as part of the Future Development Strategy
 - Will link to the work above

Resource Consents & Permitted Activities

- Chapter 18 of the City Plan provides rules and policies around the use of Industrial Zoned land (including the Port of Tauranga).
- *Industrial Activities* (defined in the City Plan) are permitted (no resource consent needed) if they meet permitted standards.
- Other relevant City Plan rules include;
 - Chapter 4 (Transportation, Earthworks, Signs etc);
 - Chapter 7 - Heritage;
 - Chapter 8 - Natural Hazards;
 - Chapter 9 - Hazardous Substances and Contaminated Land;

Resource Consents & Permitted Activities continued;

- Many activities in the Industrial Zone can meet permitted standards and don't need resource consent to operate.
- Where permitted standards are not meet resource consent is required.
- **For example**, TOSL's proposed bulk storage facility had multiple non-compliances including building height, setback, screening, hazardous substance storage and earthworks in a floodplain.

Notification Process

- Council's Planner must first decide whether an application for resource consent requires notification.
- The City Plan provides the scope of things which can be considered.
- **For example**; a noncompliance with flooding rules is limited to consideration of flooding effects, while a noncompliance with height can consider any associated effect.
- For a person to be deemed affected there must be an ability through the City Plan to consider that matter and a direct link of the effect with the proposal.
- **For example**; with TSOL's proposal Council's Planner determined that there were effects on Whareroa Marae associated with the height, setback screening non-compliances, but not in association with flooding matters.

Decisions on Resource Consent Applications

- A Council Planner must weigh up all the relevant matters to a particular proposal, including effects, City Plan provisions, National Policy documents, Iwi & Hapu management plans etc.
- If a hearing is held the Applicant, Submitters and Council Planner will all make recommendations to an Independent Hearing's Commissioner.
- In the case of TOSL Whareroa Marae made a compelling submission to the Commissioner in relation to cultural effects. Council's Planner recommended to the Commissioner that the application be declined.
- A nearby site was recently developed by Lawter NZ Limited. Resource consent was required however those activities were limited to flooding and contaminated land. While TCC was aware that Mana Whenua had an interest there was no ability to formally consider those concerns through the resource consent process.

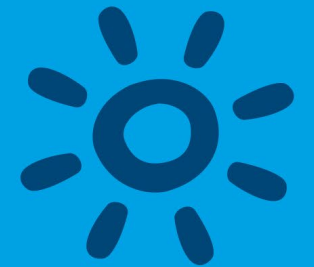
Post Consent & Monitoring

- If a site is operating as a permitted activity, they are required to meet all relevant permitted standards on an ongoing basis.
- If a site operates under a resource consent, they are required to meet any conditions of consent.
- Council Monitoring staff will actively monitor these activities but can not be everywhere all the time. If you see something that does not look right let us know EMAC@tauranga.govt.nz

Mount Air Quality Working Group

Consents

17 May 2022





Consent related topics

- Overview : Air Discharge consents - existing and applications in progress
- S124 Rights of continuance
- Consent applications - Information requirements



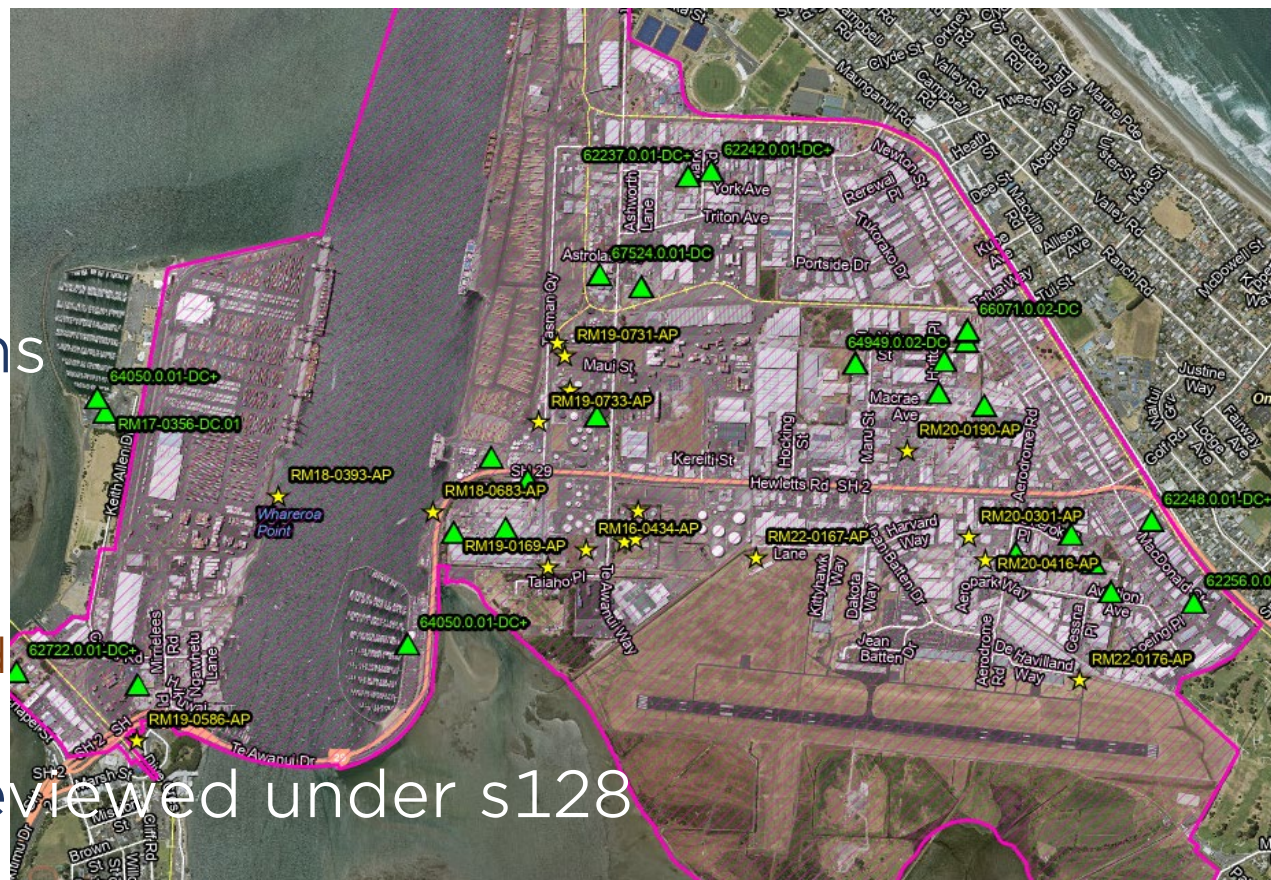
Regional Council responsibilities

- Under the RMA consents are required under sections 9 (land), 12, (CMA), 13 (beds of rivers and lakes), 14 (water) and 15 (discharges).
- Environmental effects.
- Rules are contained in the Regional Natural Resources Plan (RNRP) and Regional Coastal Environment Plan (RCEP).
- There are no existing use rights for activities governed by the Regional Council, however, some previously consented activities received the maximum term (35years) when the RMA came into effect.
- Except for reclamations, consents granted under the RNRP and the RCEP have a finite term/ expiry date, unlike land use consents from the City Council which have no expiry.



Overview: Air discharge consents

- 31 existing air discharge consents in the Mount Airshed (12 spray painters)
- Currently processing 9 applications:
 - 4 ‘renewals’
 - Waste Management Lawter
 - Allied Asphalt Higgins
 - 5 ‘new’ applications
 - HR Cement
 - TPT Forests Ltd
 - Matariki Forests
 - Timberlands Ltd
 - Ziwi Petfood - granted on 14 April
- 1 existing consent Reviewed under s128





Applications in progress

Increased level of complexity – [growth, NES, monitoring, airshed]

‘Renewals’ –s124 rights of continuance

- RM16-0434 - Waste Management - Particulates, odour, gas - SO₂ Modelling, cultural effects
- RM19-0753 - Lawter – Particulates, odour, gas Technical review, cultural effects
- RM20-0301 – Allied Asphalt - Particulates, odour, gas }
Propose a new plant Cumulative effects and cultural effects
- RM20-0190 – Higgins - Particulates, odour, gas }

‘New’ applications : Pre- PC13, these were operating as permitted activities

- RM19-0733 – TPT Forests Ltd – Particulates } Further information requested
- RM19-0731 – Matariki Forest - Particulates } On hold pending the outcome of the PC13
- RM19-0732 – Timberlands Ltd – Particulates } appeal to the Environment Court
- RM20-0416 – HR Cement – Particulates Cultural effects
Includes Upgrade & New Mill



New discharges – PM₁₀

Reg 17(NES):

New activities that generate particulate matter cannot establish in the airshed, unless their discharge is:

- $< 2.5\mu\text{g}/\text{m}^3$; or
- is offset by removing another existing emission

Existing activities (renewals):

- no increase in emissions, unless the increase is offset



S124 RMA

Exercise of resource consent while applying for a new consent

- Applies if:
 - Application is for a new consent for the same activity
 - Application is made 6 months prior to expiry
 - Application is made 3 months prior to expiry – at the Consent Authority’s discretion
- The consent holder may continue to operate under the existing consent until the new consent is either granted or declined and all appeals are determined.



S124 Timeframes

- Non-notified applications: 20 working days
- Limited notified applications: 100 working days
- Publicly notified applications: 130 working days

Excludes: Time required to provide further information



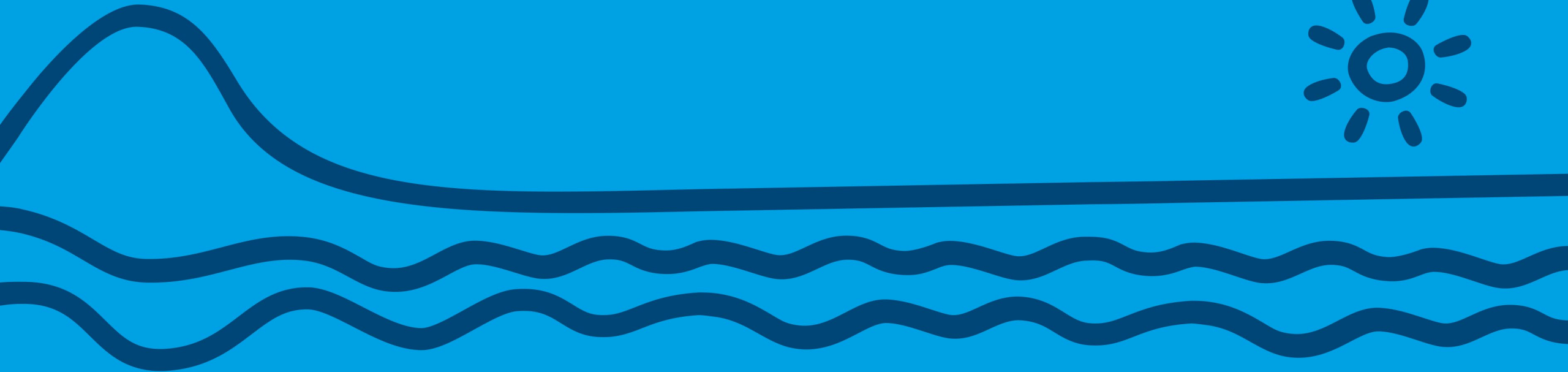
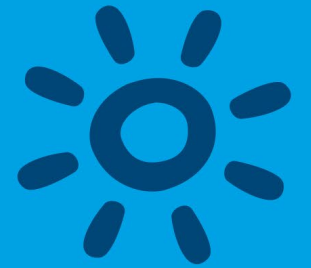
Consent Applications

- Environmental effects - Technical Review
 - Stack emission monitoring
 - Fugitive emission monitoring (site perimeter)
 - Modelling of the emissions generated on site
 - Cumulative effects assessment
- Management Plans
- Cultural effects assessment

- Time consuming work – start early
- Best practice (including technology) will be sought [PC13: AIR P3]
- Cumulative effects - Similar industries in close proximity may benefit from working together

Mount Maunganui Air Quality Working Party







Compliance & Enforcement Update



BOPRC Compliance Team: How we work



Enforcement: what's in our toolbox?

DIRECTIVE	PUNITIVE
 Advice letter <p>Advice letters are a key educational tool to help people understand what the rules are and how to comply. A follow-up inspection may also take place to ensure any minor problems have been rectified or preventive action taken.</p>	 Formal warning <p>A formal warning is documented by way of a letter informing the recipient that an offence has been committed and they are liable, but that no further action will be taken in respect of that offending. It also notes that the warning forms part of the person's compliance history and will be taken into consideration should further offending occur.</p>
 Abatement Notice <p>An abatement notice is a formal notice served on a person believed to be responsible for a breach, or an anticipated breach, of the Act. An abatement notice can require a person to cease an activity or require someone to do something in order to comply with the Act.</p>	 Infringement Notice <p>An infringement notice is a written notice alleging that a person has committed an offence and requiring the payment of a fee (maximum \$1,000 depending on the nature of the offence). Payment of the fee does not result in a criminal conviction and the infringement regime provides a quick method for dealing with less serious instances of non-compliance. Infringement notices must be issued within four months of the date of offence.</p>
 Enforcement Order <p>These are similar to abatement notices but they are issued by the Environment Court on application of the Council, therefore carry more weight.</p>	 Prosecution <p>A prosecution is initiated by laying a charging document in the criminal jurisdiction of the District Court and must be commenced within six months of the date that Council first knew, or should have known, of the offence. The charges must be proved beyond a reasonable doubt. The maximum penalties are \$300,000 or two years' imprisonment for an individual, and \$600,000 for a company. A prosecution is appropriate when the non-compliance is sufficiently serious to warrant the intervention of the criminal law.</p>



Case Study: Discharges of sediment

- Discharges of sediment from an unsealed site (CRS)
- Clear evidence from source to environment
- Two separate prosecutions, total \$135,260 of fines
- Site now sealed, reducing the chance of similar discharges





Case study: Air Discharges

- **Final warning issued on 8 February 2018**
- **64 complaints received between 8 February and 18 October 2018**
- **Charges laid in relation to 5 discharges within that period**
- **Ziwi fined \$66,000, enforcement order in place**
- **Resource Consent now provides for stronger monitoring and enforcement**





Permitted vs. Consented

Permitted Activity – Rule AIR R1	Resource Consent
<p>If Resource Consent is not required or discharge covered under another rule, two conditions apply:</p> <ul style="list-style-type: none"><i>The discharge must not be noxious or dangerous, offensive or objectionable beyond the boundary of the subject property or into any water body.</i><i>The discharge of smoke or water vapour must not adversely affect the safety of any vehicle, aircraft, or ship.</i>	<p>Includes bespoke conditions to control specific discharges, which can include requirements to upgrade infrastructure and/or practices</p> <p>Eg. RM20-0462-DC.01 (Ziwi)</p> <ul style="list-style-type: none">19 specific conditions of approvalZiwi required to develop an Odour Management plan and Ozone Control/Scrubber Management PlanOzone scrubber must be operational to required specificationsExpires 14 April 2023



Odours and Enforcement

- Evidence is critical for robust enforcement
- “FIDOL Factors” the best tool, but still imperfect
- Odour can be transient and is subjective
- Can be difficult to identify a source for some odours





What else can we do to tackle smells?

- **Continue responding to and investigation calls to the hotline**
- **Targeted proactive monitoring to compliment response**
- **Build a bigger picture of community impact (e.g. odour journals / Report-It)**
- **Bring potential contributors together to solve the problem**