

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

Decision No [2020] NZEnvC 089

IN THE MATTER of the Resource Management Act 1991
AND of three appeals under section 120 of the Act
AND an application for declarations under s 310 of the Act

BETWEEN TE RŪNANGA O NGĀTI AWA
(ENV-2018-AKL-000133)
NGĀTI TŪWHARETOA (BOP)
SETTLEMENT TRUST
(ENV-2018-AKL-000134)
SUSTAINABLE OTAKIRI
INCORPORATED
(ENV-2018-AKL-000135)
Appellants

AND SUSTAINABLE OTAKIRI
INCORPORATED
(ENV-2018-AKL-000166)
Applicant for declarations

AND BAY OF PLENTY REGIONAL COUNCIL
WHAKATĀNE DISTRICT COUNCIL
Respondents

AND CRESWELL NZ LIMITED
Applicant for consents

AND TE RŪNANGA O NGĀI TE RANGI IWI
TRUST
NGĀTI PIKIAO ENVIRONMENTAL
SOCIETY
TUWHAKAIRIORA O'BRIEN and NGĀI
TAMAWERA HAPŪ
KIWIRAIL LIMITED
RIHI VERCOE
s274 Parties |



Court: Environment Judge D A Kirkpatrick
Environment Commissioner I Buchanan
Deputy Environment Commissioner D Kernohan

Hearing: on the papers

Date of Decision: 26 June 2020

Date of Issue:

FINAL DECISION ON CONDITIONS

- A: The regional and district consents are granted on the conditions **attached** to this decision.
- B: To be added to the land use resource consent conditions, in accordance with condition 1, are:
- a) the site plan;
 - b) the NZTA vehicle classification system;
 - c) the indicative mitigation planting plan and cross-sections; and
 - d) the plan indicating the windows on the face(s) of the dwellings nearest the site.
- C: Costs are reserved. Leave is reserved to any party to apply once the High Court delivers its decision on the appeals.

REASONS

Background

[1] The Court's interim decision in respect of these proceedings,¹ among other things, directed the parties to confer on the draft conditions presented by the Applicant during the hearing and, by 31 January 2020, either lodge an agreed set of conditions

Te Rūnanga o Ngāti Awa & ors v Bay of Plenty Regional Council & anor [2019] NZEnvC 196.



or file and serve (jointly or severally) a set of conditions that the party considered to be appropriate in light of the interim decision.

[2] Three notices of appeal have been filed in the High Court against the interim decision:

- a) By Te Rūnanga o Ngāti Awa (**Ngāti Awa**) dated 17 January 2020 against that part of the interim decision relating to the regional consents;
- b) By Sustainable Otakiri Inc (**Sustainable Otakiri**) dated 20 January 2020 against the whole of the decision; and
- c) By Ngāti Pikiao Environmental Society Inc dated 14 February 2020, being a further appeal under s 305 RMA in relation to the appeal by Te Rūnanga o Ngāti Awa.

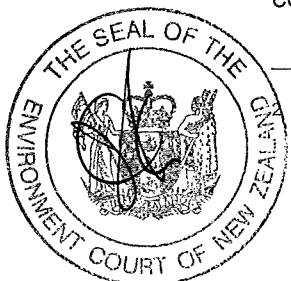
[3] No conditions were filed by 31 January 2020. Other events occurred relating to an application for a stay of proceedings pending the outcome of those appeals. This process is dealt with in the Court's further decision dated 4 May 2020 refusing that application.²

[4] That further decision included directions to the parties in relation to a timetable for the provision of draft conditions to each other and the Court. That process concluded on 15 June 2020. Draft conditions have been provided and commented on. This decision reviews them and determines their form and content. As stated in the further decision, our review and determination is necessarily without prejudice to any further consideration that may be required in the event that the appeals are successful and the High Court sets aside our interim decision.

[5] The conditions attaching to the regional water permit and the district land use consent have been addressed separately by the parties and this decision will do the same.

Regional Water Permit

[6] The parties are largely agreed on the form and content of the conditions to be attached to any water permit to take water. Various amendments to the draft conditions put forward at the hearing are proposed to clarify certain conditions. Most



are also agreed among the parties. We have reviewed these agreed amendments and accept that they are appropriate.

[7] Three issues about the wording of certain conditions remained but which can be disposed of shortly:

- i) In proposed condition 8.6(iv), reference should be to the *report* rather than *assessment* to be consistent with the rest of the condition and include a cross-reference to the particular part of the condition requiring that report.
- ii) In proposed condition 8.7(v), the choice of using *any* or *the* before the words *actions taken* does not appear to us to make much difference to the way in which conditions 8.7(iv) and 8.7(v) work together: such actions can only be those that are within the consent holder's control, not all actions identified, and the requirement is for the consent holder to notify the Regional Council of whatever it has done. We have used *the*.
- iii) In proposed condition 9.2(i) the agreed amendment to enable each iwi to specify its nominating body through the iwi authority should be clarified by adding a clause to ensure that Te Pahipoto hapū is represented, being the hapū with primary responsibility for kaitiakitanga in this place.³

[8] Three more substantial matters are not agreed and require decisions by the Court:

- i) A new condition proposed by Ngāti Awa addressing water use efficiency; and
- ii) Two amendments to condition 10 in relation to any review of the consent conditions by the Regional Council following a recommendation by the Kaitiaki Liaison Group or some change to the regulatory position relating to water.

[9] We address these matters in turn.



Water Use Efficiency

[10] Ngāti Awa propose the inclusion of the following condition:

Water use efficiency

X.1 The consent holder shall undertake annual water audits and water budgets to identify leakages and water-use efficiency. At a minimum this must include:

- (a) Measuring the rate of take at/near the bore and the rate of discharge near the end of the pipe. The consent holder shall record these values.
- (b) Annual inspections of the entire water take system to identify any leaks or losses from the system.
- (c) Any losses of water within the system as shown by (a) and/or (b) must be rectified by, the consent holder within 6 months.
- (d) The consent holder shall keep records to show compliance with conditions X.1 (a) to (c), and provide these to the Bay of Plenty Regional Council upon request.

X.2 Prior to, but within 6 months of the fifth anniversary of this consent, the consent holder shall undertake an assessment and produce a report as follows on:

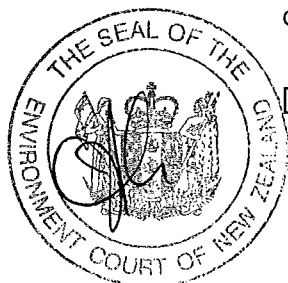
- (a) Efficiency of water allocation, by comparing annual water take records for the first four years of this consent compared to the annual consented volume of take and report on the difference in annual allocated volume versus annual use volume; and
- (b) Efficiency measures undertaken. This must include investigating current good management practices and whether any upgrades to the system can be made to make the water take and use more efficient.

Provide the report covering X.2 (a) and (b) to the Bay of Plenty Regional Council and [insert iwi/hapū who would like a copy].

[11] Counsel for Ngāti Awa submits that the terms of this condition are based on conditions that her client has been discussing with the Regional Council generally and have been tailored to this activity.

[12] Creswell accepts as a general proposition that there can be merit in imposing conditions on water takes that promote the efficient use of water. Counsel submits, however, that the evidence before the Court is that this proposed take is highly efficient, there being minimal waste, and points to the Court's finding to that effect at [161] in the interim decision. Counsel compares that efficiency to other possible uses of water such as for farm irrigation or dairy shed wash-down.

[13] Counsel for Creswell further submits that the regional planning provisions



regarding efficiency can be applied to this use, being focussed on avoiding waste. Against that, the expert planning witness called by Ngāti Awa opined that a distinction should be drawn between uses where the water remained within the local water cycle from those where it was exported. Counsel submitted that this was not accepted by the Court at [161].

[14] For those reasons counsel for Creswell submitted that imposing such a condition, in addition to condition 4 requiring water use monitoring, would be unwarranted, may set the wrong expectations, and would serve only to add to the compliance burden without any environmental or other benefit.

[15] Instead, Creswell and BOPRC propose an additional monitoring and reporting obligation as part of condition 8.8 which would require the total quantity of water bottled at the site and a calculation of the percentage of total water taken relative to the total water bottled to be reported to the Regional Council. These are appropriate requirements. While they might be considered to relate better to water use monitoring, which is covered by condition 4, their addition to condition 8 which relates to groundwater modelling means that they will form part of the consent holder's annual report to the Regional Council.

[16] In our evaluation, the purpose of a condition is highly relevant to the assessment of its appropriateness. While we acknowledge that wastage of water is an identified concern in the planning documents, that is better and more directly addressed by including a reporting requirement on the volume of water bottled and a comparison of that to the monitoring data required already by condition 4.

[17] We note that the design of the proposed new plant will result in there being a very short distance between the wellhead and the bottling plant. The water in the aquifer is under considerable artesian pressure and any leak in the pipework would be obvious. We expect the operator of the plant would be concerned to identify and stop any leaks as a matter of urgency in their own interests. Advice note 8 refers to this. To put that beyond doubt, we will move that advice note to be condition 4.7 in relation to water use monitoring.

[18] Considering the second part of the proposed condition, assessing the efficiency of water allocation by comparing the amount allocated (that is, the maximum amount of water that can be taken) to the amount used is really about the efficiency of the consent authority's consenting processes rather than that of the consent



holder's use. The maximum amount that can be taken under a water permit is a limit and exceeding it would be a breach of the terms of consent, so we would expect the holder to be careful to stay within it. If for any reason the holder were to choose to take and use substantially less than the maximum (which might be for commercial reasons relating to the demand for and supply of bottled water) then it is difficult to see how that results in any adverse effect on the resource or the immediate environment.

[19] If the amount of water available for allocation were to be substantially less than the demand for that water, then the Regional Council might want to investigate whether any unused allocation under any water permit could be transferred to other users for the balance of the term of that permit, so that the benefits of such potential use are not denied to other users. There have been cases where the issue of "locking up" a finite resource has been discussed⁴ and where some form of "use it or lose it" condition has been referred to.⁵ The risk of locked-up allocation was not raised as an issue during the hearing of this case. The amount of water that remains available for allocation from the aquifer in this case appears to be substantial.⁶ It is therefore not appropriate to consider such a condition now.

[20] For those reasons, the only amendment we will make is to delete Advice note 8 and insert its terms as a new condition 4.7.

The review condition

[21] Proposed condition 10 provides for review of the consent under s 128 RMA. Ngāti Awa propose that this condition be amended in two ways:

- a) By rewriting proposed condition 10.2(b) so that it reads (with additions shown underlined and deletions struck through):
 - (b) receiving the report required ~~by the consent holder~~ under condition 9.7, for the purpose of addressing mitigation of adverse cultural effects, in the event and to the extent they have not been appropriately addressed by the consent holder has not addressed these in an appropriate manner,

⁴ *Carter Holt Harvey Ltd v Waikato Regional Council* [2011] NZEnvC 380; *Contact Energy Ltd v Manawatu-Wanganui Regional Council* [2010] NZEnvC 406; [2011] NZRMA 155 at [26] and [133].

⁵ *Pukekohe East Community Society Inc v Auckland Council* [2017] NZEnvC 027 at [84].

⁶ *Te Rūnanga o Ngāti Awa & ors v Bay of Plenty Regional Council & anor* [2019] NZEnvC 196 at [69].



consistent with the provisions of the RPS and Regional Natural Resources Plan as envisaged by condition 9.7.

b) An additional condition 10.3, as follows:

10.3 In accordance with section 128(1) of the Resource Management Act 1991, the Bay of Plenty Regional Council may serve notice on the consent holder of its intention to review the conditions of this resource consent on the fifth anniversary of this consent or annually thereafter. The intention of such a review is to:

- (a) Give effect to any Act of Parliament, Regulation, National Policy Statement, Regional Policy Statement or relevant Operative Regional Plan, which controls or restricts the allocation of water from the aquifer authorised by this consent; and/ or
- (b) Ensure the relevant Freshwater Management Unit (FMU) meets the freshwater objectives and freshwater quality limits set in the Operative Regional Plan pursuant to Policy A1 of the National Policy Statement for Freshwater Management; and/or
- (c) Enable any levels, flows, rates, or standards set in a relevant Operative Regional Plan to be met.

[22] Counsel for Ngāti Awa submits that the amended form of condition 10.2(b) will provide for a clearer course of action should the consent holder not present compelling reasons for its chosen course of action under condition 9.7(ii) which requires reasons to be given by the consent holder where it does not intend to implement a recommendation of the Kaitiaki Liaison Group. Counsel submits that the addition of condition 10.3 will provide further certainty about a particular review every 5 years.

[23] Creswell and the Regional Council oppose these amendments. In response to the rewritten form of proposed condition 10.2(b), counsel submit that the rewritten form does not assist in understanding its meaning

[24] In response to the proposed new condition 10.3, counsel submit that the addition is unnecessary in light of s 128(1)(b) RMA which provides for a review of conditions in the same circumstances as those contemplated by the proposed addition.



[25] Section 128(1)(b) RMA provides:

- (1) A consent authority may, in accordance with section 129, serve notice on a consent holder of its intention to review the conditions of a resource consent—
 ...
- (b) in the case of a coastal, water, or discharge permit, when a regional plan has been made operative which sets rules relating to maximum or minimum levels or flows or rates of use of water, or minimum standards of water quality or air quality, or ranges of temperature or pressure of geothermal water, and in the regional council's opinion it is appropriate to review the conditions of the permit in order to enable the levels, flows, rates, or standards set by the rule to be met;

[26] We agree with counsel for Creswell and the Regional Council that the re-written form of condition 10.2(b) does not improve it. It will be a matter for the Regional Council to determine, no doubt with input from the members of the Kaitiaki Liaison Group, whether any reason given by Creswell for not adopting a recommendation of that Group is *appropriate*. That word offers scope to consider any relevant matter, including consistency with any relevant statutory planning document, and no more is needed.

[27] We agree with counsel for Creswell and the Regional Council that the scope already provided in s 128(1)(b) RMA is sufficient to enable the matters listed in the proposed new condition 10.3 to be addressed. While that statutory provision only refers to rules in an operative regional plan, such rules must be prepared in accordance with any relevant statutory or regulatory provision and any relevant national or regional policy statement⁷ and must give effect to any such policy statement,⁸ so one may expect the requirements of those higher order documents to be met by the rules. If in any case they are not, then any defect in this regard may be the subject of an order by the Court in any proceedings.⁹

District Land Use Consent

[28] Creswell and the District Council presented a set of conditions to attach to the land use consent, agreed between themselves, on 23 March 2020.

[29] Sustainable Otakiri seeks numerous amendments to those conditions which,

⁷ Section 66(1) RMA.

⁸ Section 67(3) RMA.

⁹ Section 292 RMA.



according to the submissions of its counsel, are intended to do the following:

- (a) Sustainable Otakiri generally proposes that management plans and the like are also provided to the [Neighbourhood Liaison Group (**NLG**)], at the same time as submitted to Council. Sustainable Otakiri understands that the NLG does not have any right to certify such plans, but Sustainable Otakiri considers that if the NLG is to fulfil its purpose efficiently and effectively, then it should have early access to those plans, rather than having to request them from the Council once filed.
- (b) Various additional details are suggested for the conditions, given Sustainable Otakiri's understanding of the site and its surrounds, e.g. at condition 5(d)(i)-(ii).
- (c) Slightly reduced hours of operations for Truck and Container movements are requested, to mitigate effects on neighbours (at condition 34), and for lighting, at condition 45, and construction noise, at condition 50.
- (d) Clarity on the offers of mitigation to nearby property owners affected by the proposal. As a first point, the offers were proposed to be made to just members of Sustainable Otakiri. While that is understandable, if there are effects that require offers of mitigation then they should be made to all owners suffering those same effects – not just members of Sustainable Otakiri. Furthermore, the effects are not just noise, but a combination of noise, amenity (visual), dust, and other effects. Sustainable Otakiri has taken the view that noise effects are the most important to mitigate against, and that acoustic insulation should be offered to the owners of all relevant properties. However, if they would prefer other mitigation works to be undertaken, i.e. planting, and sealing of driveways, then they should be able to elect that (to a similar value). After all the owner is best placed to identify what would best assist in mitigating effects for them. The property at 58A Johnson Road, was identified as being particularly significant affected, and has additional matters included in its offer, at proposed condition 53A.
- (e) Additions have been proposed to condition 65, and a new 66A, to ensure that the NLG is not compromised in its ability to function efficiently and effectively because of inadequate resourcing.

[30] In reply, Creswell and the District Council jointly say:

- a) They support the amendments to facilitate the provision of information to the NLG, including the numerous ancillary plans required by the conditions, the reports on any damage to and maintenance of water



infrastructure and on the monitoring of noise and traffic, the surveys undertaken as part of the Construction Management Plan (with the affected owners' permission) and weekly construction updates.

- b) They support the requirement that traffic monitoring be undertaken by or under the supervision of a suitably qualified and experienced traffic engineer and that certification of works and monitoring in respect of noise be done by a suitably qualified and experienced expert. In both cases, Creswell expects that the experts it engages will be regarded as independent.
- c) The additional details for the conditions are generally opposed as going beyond what was presented in evidence during the hearing.
- d) The reduction in the hours of operation for truck and container movements are opposed as going beyond the reductions previously accepted by Creswell and not being supported by the evidence at the hearing. Creswell also submits that such a reduction could have the consequence of increasing the intensity of heavy traffic.
- e) Creswell opposes the amendments that would expand the application of the controls on trucks entering and leaving its site to all vehicles on adjacent roads, both as being unsupported by the evidence before the Court and likely being unenforceable.
- f) The amendments to require that the offers of mitigation be increased are opposed as being unsupported by evidence and extending beyond the reasonable bounds of addressing the effects of the consented activity.
- g) While supporting the conditions for appointment of a neighbourhood liaison person and for the establishment and operation of the NLG, including amendments to include affected persons on Moody Road, Creswell opposes amendments which would require Creswell to fund or otherwise provide resources, including obtaining independent advice, to the NLG, saying that it should be a voluntary group to facilitate direct discussions with the consent holder. Creswell also opposes Sustainable Otakiri Inc being a member of the NLG in its own right, saying that membership should be restricted to residents of properties adjacent to the site who are affected by the consented activity.



Overall Evaluation

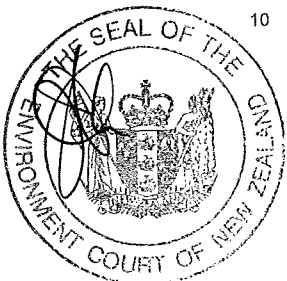
[31] We do not consider it necessary to go through all of the amendments sought and all of the responses to those in detail. We address certain matters below, some in terms of the issues arising from the nature of the disputes and some relating to the detailed amendments in issue where that is appropriate.

[32] The Court is always glad to see a general willingness to share information and we endorse the amendments to these conditions to achieve that.

[33] We do not consider that the word *independent* needs to be included in the qualifications of the traffic engineer or the acoustic consultant in conditions 11, 40 and 41. The independence of any consultant should be implicit in their professional role as an expert. If a qualified and experienced person required to certify something or monitor and report on certain effects is not acting independently in a professional manner, then that person will not be regarded by the Court as acting as an expert. The assessment of this depends on the person's behaviour and generally not on the basis on which they have been engaged to undertake the work. In particular, being paid to provide professional advice, report or other service does not, by itself, result in a loss of independence. A contingent payment, however, is generally antithetical to that status. For example, if the advice were to depend on the outcome sought so as to affect the person's judgement and the advice they give or the report they provide, then that would demonstrate a loss of independence and so strip any such judgment, advice or report of its expert quality.¹⁰

[34] The real test of any condition which relies on such certification or reporting is that the relevant information must accompany the certificate or report, so that anyone else, be it the consent authority or any affected or otherwise interested person, can examine the basis for the certificate or report and may engage another expert to review it. If the condition has not been complied with, the consent authority may issue an abatement notice or any person may seek an enforcement order.

[35] The additional matters which Sustainable Otakiri seeks to include in the conditions and which go beyond the findings of the Court's interim decision or the evidence before the Court should not now be included in the conditions. Most of these



¹⁰

See the discussion of this issue in *R (Factortame Ltd) v Secretary of State for Transport (No 8)* [2003] QB 381 (CA) at [63] – [73]; and in *Commissioner of Inland Revenue v BNZ Investments Ltd & ors* [2009] NZCA 47 at [21] – [24].

appear to be additional requirements of or restrictions on the consent holder. To a degree they appear to be a continuation of the appeal against the granting of consent and not the settling of conditions after a decision has been made to grant consent.

[36] The disputes about the various road upgrading works exemplify the difficulties that arise. We endorse the proposal by Creswell to include a requirement for the Road Upgrade Plan to be developed in consultation with the NLG prior to being submitted to the Council as the road controlling authority.

[37] We do not see any basis on which the condition relating to protection of the water supply infrastructure should be expanded to create an obligation for compensation payable to persons other than the Council. We also see no basis on which to impose or amend conditions to require action by the consent holder in the event of any serious traffic accident. We would expect the Council or the Police to be responsible for the investigation of such matters and any determination of the consequences following such investigation.

[38] We see no good reason to increase the frequency of reviews of staff travel plans from 5-yearly to biennially. We also see no reason to increase the extent of planting and landscaping, based on the evidence before the Court.

[39] The proposal to further restrict truck and container movements is not supported by the evidence. We also see no basis on which to include all class 2 or greater vehicles in the control on the volume of traffic. As we understand the vehicle classification scheme of the New Zealand Transport Authority, this would limit not only medium and heavy commercial vehicles in class 4 and above, but also light commercial vehicle and private cars in class 2 and 3. Similarly, the request to expand the use of reasonable endeavours to manage driving behaviour on public roads in condition 42 to include all traffic goes beyond what can reasonably be expected of a consent holder.

[40] The request to increase the height of the noise barrier from 2.4m to 4 m is not supported by the evidence. The conditions requiring the consent holder to offer to provide acoustic treatment to the owners of certain properties in respect of the entire house and not just the sides facing the site is also not supported by the evidence. There is also no justification for such offer to be maintained to any new owner of a property where the current owner does not take it up. The special provisions sought in respect of the property at 58A Johnson Road were not advanced at the hearing.



[41] The reduction of hours during which construction may be undertaken is not supported by evidence. There may be a trade-off between reduced hours available per day and the length of the construction period. In the context of this environment there is nothing before the Court to demonstrate that starting at 7.30 am rather than 8 am would be unreasonable.

[42] There is no evidence to indicate that surveys of existing buildings, in order to assess whether any damage may be caused by vibration, should be expanded from 200m to 400m.

[43] We accept the submissions of Creswell and the Council that the purpose of the Neighbourhood Liaison Group is to provide a regular forum through which there can be direct discussion between the consent holder and neighbours of the site. We do not consider it would be conducive to that purpose to make Sustainable Otakiri a member of that group. Obviously, there are a number of members of Sustainable Otakiri who are neighbours of the site and so the exclusion of the society will not shut out those people. In the same way, we agree that the consent holder should not be required to fund the NLG. The Court's experience is that imposing such financial requirements on a consent holder as part of a liaison group tends to defeat the purpose of the group and lead to other undesirable consequences. We agree that the requirement for a memorandum of understanding between the consent holder and the Group provides an adequate basis on which resourcing of reports can be discussed.

Decision

[44] For the foregoing reasons, we decide that the regional consent and the district land use consent are granted on the conditions **attached** to this decision.

[45] To be added to the land use resource consent conditions, in accordance with conditions 1 and 43, are:


- a) the site plan;
- b) the NZTA vehicle classification system;
- c) the indicative mitigation planting plan and cross-sections; and
- d) the plan indicating the windows on the face(s) of the dwellings nearest the site.

[46] Costs are reserved. The issue of costs is one that has the potential to be

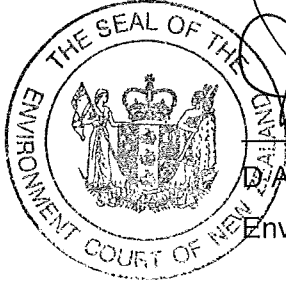


affected by the outcome of the appeals to the High Court. We are advised that the appeals are set down to be heard commencing on 27 July 2020. Given that fixture in the near future, we make no directions at this stage in relation to applications for costs. Leave is reserved to any party to apply once the High Court delivers its decision on the appeals.

For the Court



D.A. Kirkpatrick
Environment Judge

The seal of the Environment Court of New Zealand is circular. It features a central coat of arms with a crown on top, flanked by two figures. The text "THE SEAL OF THE ENVIRONMENT COURT OF NEW ZEALAND" is inscribed around the perimeter of the seal.

REGIONAL WATER PERMIT CONDITIONS

Consent Number: **RM17-0424-WT.01**

1. Purpose

- 1.1 For the purpose of authorising and specifying conditions for the take and use of groundwater from two bores for water bottling on the consent holder's property located at 57 Johnson Road, Otakiri.

2. Location

- 2.1 Groundwater shall only be taken from:

- Well no. BN17-0056, 250 millimetres diameter and 228 metres deep, at or about map reference NZTM 1928704, 5786481; and
- Well no. BN-932, 150 millimetres diameter and 220 metres deep, at or about map reference NZTM 1928702, 5786319 as shown on Beca Drawing No. 2663104 – AR-101 Rev. 01 and referenced as BOPRC Consent Plan RM17-0424 – 01 Site Plan

3. Quantity and Rate of Groundwater Take and Use

- 3.1 The combined maximum rate of take from well no. BN17-0056 and well no. BN-932 shall not exceed 58 litres per second at any time.
- 3.2 The combined daily quantity of water taken from well no. BN17-0056 and well no. BN-932 shall not exceed 5,000 cubic metres.
- 3.3 The combined total quantity of water taken from well no. BN17-0056 and well no. BN-932 shall not exceed 1,100,000 cubic metres in any 12 month period.
- 3.4 Within the daily limit set by condition 3.2, a combined daily maximum of 620 cubic metres of water may be taken from well no. BN17-0056 and well no. BN-932 for the purpose of dust suppression during any earthworks associated with the expansion and development of a water bottling plant at the site and the upgrade of Hallett Road and Johnson Road between the SH34 intersection and the site.

4. Water Use Monitoring

- 4.1 The consent holder shall install a water meter and telemetry on each bore head prior to the exercise of this consent. The water meters shall:



- (a) meet the Resource Management (Measuring and Reporting of Water Takes) Regulations 2010 (see Advice Note 10);
- (b) be installed and maintained in accordance with the manufacturer's specifications, and to the satisfaction of the Bay of Plenty Regional Council;
- (c) be installed at a location that will ensure the entire water take is measured;
- (d) be sealed and as tamper-proof as practicable;
- (e) be suited to the qualities of the water it is measuring (such as temperature, algae content and sediment content);
- (f) be able to be fitted with a recording device; and
- (g) be able to measure both cumulative water abstraction and the instantaneous rate of take to an accuracy of 5%.

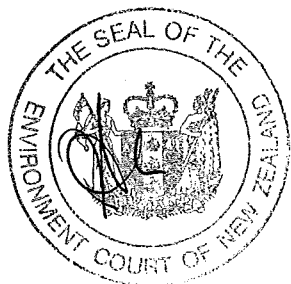
4.2 The water meters shall be verified by a suitably qualified operator within two months of the consent being exercised. Verification by a suitably qualified operator must also be performed at least every five years thereafter, or as requested by the Bay of Plenty Regional Council. Within one month of verification being undertaken, the consent holder shall provide appropriate evidence of verification to the Bay of Plenty Regional Council (see Advice Note 2).

4.3 All practicable measures shall be taken to ensure that the water meters and recording device are fully functional at all times. All malfunctions of water meters and telemetry shall be reported to the Bay of Plenty Regional Council within 24 hours of observation and appropriate repairs undertaken as soon as practicable following observation of malfunction (see Advice Note 3).

4.4 Staff of the Bay of Plenty Regional Council shall be allowed access to the water meter and recording device for the purpose of compliance monitoring.

4.5 The water meters shall record, for each well, the following information:

- Hours pumped;
- Abstraction rate (litres per second);
- Quantity of water taken from well no. BN17-0056 and well no. BN-932 (cubic metres per day);
- If no water is taken, the volume shall show zero (0) cubic metres.



Such records shall be available for inspection by Regional Council staff.

- 4.6 Electronic copies of the water records required by condition 4.5 shall be in a suitable format for electronic storage and reported electronically on a daily basis to Bay of Plenty Regional Council.
- 4.7 The consent holder shall take practicable measures to ensure water conservation and efficient operation of the bore intake and water bottling system, including but not limited to:
- Identifying and rectifying leaks;
 - Remedying water losses; and
 - Pursuing opportunities to conserve or use water more efficiently.

5 Notification

- 5.1 Within one month of the granting of this consent, the consent holder shall provide in writing to the Bay of Plenty Regional Council or delegate, notification of the contact details (including phone number) of the person(s) responsible for the bottling plant management and compliance with consent conditions. Any changes to these contact details shall be provided in writing to the Bay of Plenty Regional Council (see Advice Note 2).
- 5.2 The consent holder shall notify the Whakatāne District Council Waters Department at least five working days prior and again at least 48 hours prior to undertaking any purging or cleaning of either bore on the site.

6 Access

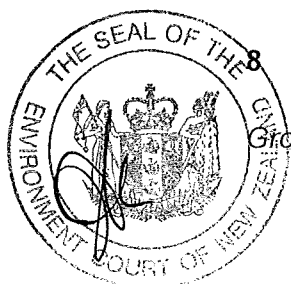
- 6.1 The consent holder shall maintain adequate access to the wellhead and all reticulation for monitoring purposes to the satisfaction of the Bay of Plenty Regional Council.

7 Regional Monitoring

- 7.1 For the purpose of groundwater investigations, the consent holder shall be required to cease taking water for a period of up to 72 hours when requested by the Bay of Plenty Regional Council, on a maximum of two occasions per year.

8 Groundwater Monitoring

Groundwater Baseline Monitoring



- 8.1 The consent holder shall undertake groundwater baseline monitoring on site for a period of at least 18 months, as below:
- i. Hourly monitoring of groundwater level above ground (pressure) in bore no. BN-932 (for the deep aquifer), and
 - ii. Hourly monitoring of groundwater table level below ground in at least one shallow bore located at the western site boundary.

The groundwater level monitoring results to be compiled in terms of mRL shall be used as a baseline to inform the Groundwater Monitoring and Management Plan required by condition 8.3. If water is abstracted from BN-932 during the baseline monitoring, sufficient continuous non pumping periods (72hrs minimum) should be allowed for each month to assess at rest SWL (Static Water Levels).

Groundwater Monitoring and Management Plan

- 8.2 The consent holder shall engage a suitably qualified experienced hydrogeologist to prepare a Groundwater Monitoring and Management Plan (GMMP) that meets the requirements of condition 8.3. A draft of the GMMP shall be provided to the Neighbourhood Liaison Group (NLG) required by condition 64 of the land use consent 61/4/817 issued by the Whakatāne District Council and the Kaitiaki Liaison Group (KLG) required by condition 9.2 of this consent. The consent holder shall invite the NLG and KLG to provide any comments on the draft GMMP to the consent holder within 20 working days of receiving the draft GMMP.
- 8.3 The consent holder shall submit a final GMMP to the Bay of Plenty Regional Council for certification at least 15 working days prior to the abstraction of groundwater from production bore BN17-0056 for the purposes of water bottling.

The purpose of the GMMP is to monitor the potential drawdown effects of the groundwater abstraction at the site, to specify the groundwater trigger level and the response actions that will be taken to protect the aquifer from significant adverse effects associated with the consent holder's groundwater abstraction.

The GMMP shall include the following information as a minimum:

- i. A map showing the location of production bore BN17-0056, bore BN-932 (deep aquifer bores) and at least one shallow bore on site to be monitored;
- ii. Groundwater monitoring method(s) and procedures for bore BN-932 (deep aquifer bore) and the shallow monitoring bore;
- iii. Procedures for the calibration and maintenance of the monitoring equipment;



- iv. Results of baseline monitoring including an assessment of seasonal low groundwater level against which the trigger level can be defined;
- v. Alert trigger level (as referenced level, m RL) for bore BN-932: The variability in groundwater levels over the baseline monitoring period shall be used to establish seasonal groundwater level variability. The Seasonal Low (baseline) Groundwater Level will be identified and used to establish the referenced trigger level for monitoring as m RL;
- vi. Procedures for how the actions in response to the trigger level exceedance will be implemented;
- vii. Procedures for notification to the Bay of Plenty Regional Council when the trigger level is exceeded;
- viii. Details of any other reporting requirements to the Bay of Plenty Regional Council, NLG and KLG; and
- ix. Details of any NLG and KLG comments received on the draft GMMP and how these have been or not been incorporated into the final GMMP (and if not, why).

The consent holder shall not implement the GMMP until the Bay of Plenty Regional Council has certified in writing that the GMMP fulfils the requirements of this condition.

Compliance with the Groundwater Monitoring and Management Plan

8.4 The consent holder shall undertake groundwater monitoring in accordance with the certified GMMP, including as amended in accordance with condition 8.7, for the duration of this consent.

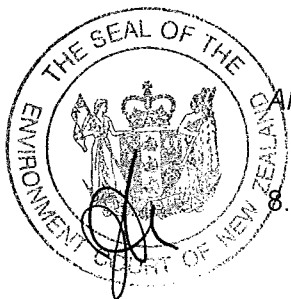
Groundwater Monitoring Trigger and Response

8.5 The groundwater take shall be managed in accordance with the relative Alert Trigger Level specified below:

Movement	Alert
Drawdown of Static Water Level (SWL) below the baseline Seasonal Low Groundwater Level (as specified in the certified GMMP) at the groundwater monitoring bore no. BN-932.	3.2m

Alert Trigger Response

8.6 If the alert trigger in condition 8.5 is exceeded the consent holder shall undertake the



following response actions and any other response actions as specified in the certified GMMP:

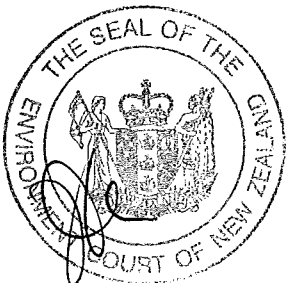
- i. Review the groundwater monitoring results and validate the alert trigger exceedance. If the exceedance is due to a fault or other operational issue in the monitoring equipment, rather than an actual alert trigger exceedance, the consent holder shall notify the Bay of Plenty Regional Council within 48 hours and take any actions required to correct the identified fault or issue as soon as practicable. No further action is required.

- ii. If the alert trigger exceedance is validated under (i) the consent holder shall notify the Bay of Plenty Regional Council within 48 hours and undertake an investigation into the cause of the exceedance. The investigation shall be undertaken by a suitably qualified and experienced hydrogeologist and include as a minimum:
 - A review of the consent holder's groundwater abstraction records and an assessment against the water level records;
 - A review and assessment of water levels and groundwater abstraction records of deep aquifer bores within a 2km radius of bore no. BN-932 and any other monitoring undertaken in the aquifer, as far as possible (noting that the consent holder will have to request this information from the Bay of Plenty Regional Council and/or consent holders);
 - An assessment of this information against the established baseline;
 - A review of the assessment to determine if the cause is due to the consent holder's groundwater take, and
 - Discussions with the Bay of Plenty Regional Council regarding the cause of the exceedance.

- iii. If the alert trigger exceedance is validated under (i) and either:
 - The exceedance of the alert trigger continues for a duration longer than 48 hours; or
 - There are two or more consecutive shorter duration (but longer than 12 hours) exceedances of the alert trigger, within a period of 48 hours;

the consent holder shall within 20 working days submit a report to the Bay of Plenty Regional Council for certification as to the following matters:

- (a) that the report has been prepared by a suitably qualified and experienced hydrogeologist; and
- (b) includes as a minimum:



- A review of the consent holder's groundwater abstraction records and water level monitoring records;
- An assessment of the water levels and abstraction records of any deep aquifer bores within a 2km radius of bore no. BN-932 and any other aquifer monitoring information that has been obtained;
- An assessment as to the cause of the trigger exceedance and related groundwater level decline and whether this was causing or was likely to cause a significant adverse effect, and
- Details of any further actions that are required to address the cause of the exceedance and/or to address an adverse environmental effect and when they are required to be implemented.

The consent holder shall also provide a copy of the report to the NLG and KLG within the same timeframe.

- iv. If the report required by clause (iii) of this condition concludes that the consented activity is causing or is likely to cause a significant adverse effect on the Otakiri Aquifer then the consent holder must implement the actions recommended in the report that are within the consent holder's control in order to address that effect.
- v. The consent holder shall notify the Bay of Plenty Regional Council within 20 working days of the completion of the actions taken to address the cause of the exceedance and/or to address an environmental effect specified in the report required by condition 8.6(iii) above.

Changes to the Groundwater Monitoring and Management Plan

8.7 The consent holder may submit amendments to the GMMP to the Bay of Plenty Regional Council for certification at any time for the following reasons:

- To change the monitoring bores on site in the event that a bore is destroyed or otherwise no longer useful as a monitoring bore;
- If over time the procedures, actions and timeframes for responding to the trigger level (other than those provided in the conditions of this consent) are no longer considered appropriate by the consent holder;
- To implement any recommendations that arise from investigations undertaken into trigger level exceedance;
- To implement agreed recommendations of the NLG or KLG; or



- At the request of the Bay of Plenty Regional Council.

The consent holder shall consult with the NLG and KLG regarding any amendments to the GMMP, prior to submitting them to the Bay of Plenty Regional Council. The feedback received from the consultation shall be supplied to the Bay of Plenty Regional Council at the same time that the amendments are submitted to the Bay of Plenty Regional Council.

No changes to the GMMP shall be implemented until the consent holder has received written certification of the changes from the Bay of Plenty Regional Council.

Annual Groundwater Monitoring Report

8.8 The consent holder shall provide an annual groundwater monitoring report to the Bay of Plenty Regional Council by 30 July each year for the duration of this consent. The purpose of this report is to provide an overview of the groundwater monitoring and reporting work undertaken during the preceding year. The report shall include as a minimum:

- i. All groundwater monitoring data required in accordance with the certified GMMP and a summarised interpretation of this data;
- ii. The annual total quantity of water bottled at the site (cubic metres);
- iii. A calculation of the percentage of annual total water taken under this consent relative to the annual total water bottled;
- iv. Discussion of any trigger level exceedance if that occurred in that year and a summary of the responses taken, and
- v. Recommendations for any amendments to the monitoring and how and when these would be implemented through changes to the GMMP.

The consent holder shall provide a copy of the annual reports to the NLG and KLG.

9 Kaitiaki Liaison Group

9.1 Within 12 months of the commencement of this consent, the consent holder shall appoint a kaitiaki liaison person with the responsibility of on-going engagement with tangata whenua.

The consent holder shall notify the Bay of Plenty Regional Council, Whakatāne District Council and the following iwi of the name and contact details of the person appointed:

- Ngāti Awa



- Ngāti Tūwharetoa
- Ngāti Rangitahi
- Ngāti Māhino

9.2 i. Within 12 months of the commencement of this consent, the consent holder shall invite the following iwi to nominate up to two representatives each to be part of the Kaitiaki Liaison Group (KLG), with each iwi specifying its nominating body through the iwi authority.

- Ngāti Awa (both hapū and iwi level)
- Ngāti Tūwharetoa
- Ngāti Rangitahi
- Ngāti Māhino

ii. In the event that the Ngāti Awa nominees do not include at least one member of Te Pahipoto hapū, the consent holder shall invite the hapū to nominate up to two representatives to be members of the KLG.

iii. The KLG shall comprise any one or more of the identified iwi. Only one KLG will be formed.

iv. Up to two members of Otakiri Springs Māori staff will also be invited to be part of the KLG.

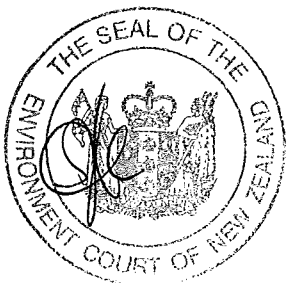
v. A Consent Holder representative shall be present at all meetings of the KLG.

vi. The KLG shall be in place for the duration of this consent.

vii. The purpose of the KLG will be to provide a regular forum for kanohi-ki-te-kanohi engagement with the identified iwi regarding the construction and operation of the plant. The KLG will also enable opportunities for any concerns or issues iwi may have to be reported to, and responded to, by the consent holder.

viii. Topics that the KLG may choose to discuss include:

- The construction and operation of the plant, including any concerns iwi have.
- The Hallett Drain Monitoring Plan and any monitoring results.
- The Groundwater Monitoring and Management Plan and any monitoring results.
- Development of a framework and methodology for monitoring the effects of the Project on the mauri of the aquifer.



- Monitoring and management of any other cultural effects on the aquifer, if they arise.
- A process for reporting the results and sharing of information between the consent holder and tangata whenua including meeting to discuss the preparation of the annual groundwater monitoring report required under condition 8.8 of this consent, prior to it being submitted to the Bay of Plenty Regional Council.
- How local tikanga may be incorporated in monitoring the effects of the project.
- Baseline information about the aquifer.

9.3 The consent holder shall invite the members of the KLG to develop a Memorandum of Understanding (MoU) in collaboration with the consent holder that includes as a minimum:

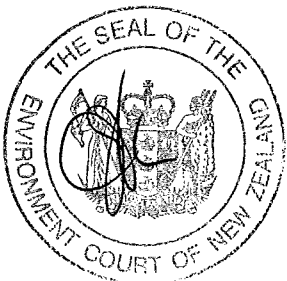
- i. The purpose of the KLG in relation to the Project's consents;
- ii. The composition of the KLG and the process by which membership may be amended;
- iii. The rate of remuneration for members of the KLG;
- iv. Period of review of the MoU and rates of remuneration;
- v. The process for the provision of information (for example monitoring plans) and for members to provide their feedback; and
- vi. Mechanisms for dealing with disagreement.

9.4 The consent holder shall invite the members of the KLG to attend a hui on at least an annual basis, but it could be more frequent, to discuss matters as identified and agreed by the KLG. The frequency of the hui shall be discussed and agreed to by the KLG.

9.5 The consent holder shall provide administrative support, prepare an agenda and maintain records of the KLG hui. Copies of the record of meeting shall be provided to the Bay of Plenty Regional Council, within one month of any hui being held.

9.6 The KLG may at any time make recommendations in writing directly to the consent holder on measures to be undertaken to mitigate adverse cultural effects attributable to the take and use of water authorised by this consent.

9.7 Within one month of receiving any recommendations in writing made by the KLG in accordance with Condition 9.6 the consent holder shall respond to the KLG members in writing detailing:



- i. The manner and timeframe in which they intend to implement those recommendations; or
- ii. The reasons for not implementing the recommendations if it does not intend to implement them; and
- iii. Where appropriate, alternate options for mitigating adverse cultural effects.

A copy of the response must also be provided to the Regional Council within 5 working days of providing it to the KLG.

10 Review

10.1 In accordance with section 128(1) of the Resource Management Act 1991, the Bay of Plenty Regional Council may serve notice on the consent holder of its intention to review the conditions of this resource consent on an annual basis within three months of the anniversaries of the date this consent was granted in order to:

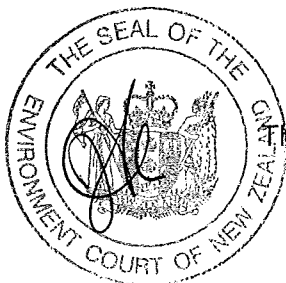
- (a) Ensure that the use of water authorised by this consent remains an efficient use of the groundwater resource; and / or
- (b) Irrespective of allocation limits within the Regional Natural Resources Plan, reduce the rate and/or volume of take if significant adverse effects are observed in the Otakiri Aquifer, those effects are a result of and are attributable to the take and use of water authorised by this consent.

Clause 10.1(b) was offered in part by the consent holder and the consent holder agreed to be bound by it pursuant to the Augier principle.

10.2 In accordance with section 128(1) of the Resource Management Act 1991, the Bay of Plenty Regional Council may serve notice on the consent holder of its intention to review the conditions of this resource consent within six months of:

- (a) becoming aware of an adverse effect on the environment that occurs as a result of the exercise of this consent, for the purpose of addressing any such effect; and / or
- (b) receiving the report required by the consent holder under condition 9.7, for the purpose of addressing mitigation of adverse cultural effects to the extent they have not been appropriately addressed by the consent holder as envisaged by condition 9.7.

The fair and reasonable costs associated with any such review shall be recovered from the



consent holder (see Advice Note 9).

11 Resource Management Charges

11.1 The consent holder shall pay the Bay of Plenty Regional Council such administrative charges as are fixed from time to time by the Regional Council in accordance with section 36 of the Resource Management Act 1991.

12 The Consent

12.1 Under no circumstances shall this resource consent be exercised concurrently with resource consent 20595 (see Advice Note 7).

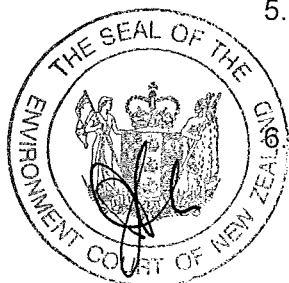
13 Term of Consent

13.1 This resource consent shall expire 25 years from the commencement of the consent.

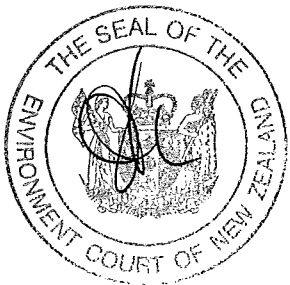
Advice Notes

1. Regarding condition 3.4, the maximum daily take for dust suppression is based on an application rate of 10mm/day over a maximum area of 6.2 hectares to meet the requirements of Condition 9.1 on the earthworks resource consent RM17-0424.
2. Unless otherwise specified, notification required under consent conditions shall be directed to the Regulatory Compliance Manager, Bay of Plenty Regional Council, PO Box 364, Whakatāne 3158, or fax: 0800 884 882 or email notify@boprc.govt.nz. This notification shall include reference to the consent number RM17-0424.
3. Telemetry data should be supplied as per XML Data Transfer Standard- file vista or FTP, with the identifier element RM17-0424_CB0056 and RM17-0424_CB932 made up of the consent number and the monitoring code. The Bay of Plenty Regional Council needs to be notified when this data is to be transferred (Appendix 1).
4. This resource consent will lapse five years from the time of being granted, if not given substantive effect to by the consent holder within that time.
5. The consent holder is advised that non-compliance with consent conditions may result in enforcement action against the consent holder and/or their contractor(s).

Alteration of the bore depth or screening of another aquifer is not authorised under this consent.



7. The consent holder is advised to surrender resource consent 20595 to avoid ongoing associated annual charges. There is no cost to surrender a resource consent. Please contact a Regulatory Administration Officer for further details.
8. Any review of consent conditions undertaken in accordance with condition 10.1 and section 128 of the Resource Management Act 1991 may result in a reduction of the rate and/or quantity of water take authorised by this consent.
9. Resource Management (Measuring and Reporting of Water Takes) Regulations 2010 came into force on 10 November 2010. Details can be found at www.boprc.govt.nz/environment/resource-consents/water-metering or www.boprc.govt.nz and search for 'water metering'.



DISTRICT LAND USE CONDITIONS

Land Use Consent (61/4/817)

Approved Documents

1. The activity shall be constructed and operated in general accordance with the application and plans, being:
 - Variation to Consent Conditions 61/4/817 and Land Use Consent for the Disturbance of Contaminated Soils, prepared by Beca, 22 September 2017
 - Site Plan 2663104-AR-101 Rev 01, Beca, 12 June 2019 (**Attachment A**)
 - Vehicle Classification System (NZTA 2011) (**Attachment B**)
 - Indicative Mitigation Planting Plan Beca Ref: 2663104, Rev J, June 2019 (**Attachment C**)
 - Indicative Mitigation Planting Plan Cross-sections Beca Ref: 2663104, Rev I, June 2019 (**Attachment C**)

and all information submitted as part of this application and further information, except where superseded, modified by, or updated by, any other condition of this consent including, but not necessarily limited to, revisions made as a result of the detailed design of the Project in response to the conditions of consent.

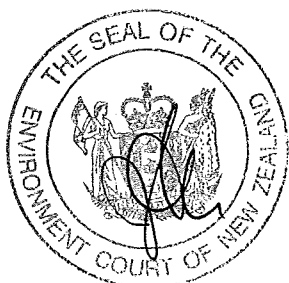
2. The consent holder shall ensure that all contractors carrying out works on the site are aware of the conditions of consent and that they comply with the conditions of consent.
3. The proposal shall proceed in no more than two stages. The two stages shall comprise the following:

Stage 1:

- (a) the first high speed 72,000 bottles/hr bottling line;
- (b) the upgrade to the existing bottling line from 8,000 bottles/hr to 10,000 bottles/hr; and
- (c) all buildings and site works set out in the approved documents.

Stage 2:

The addition of the second high speed 72,000 bottles/hr bottling line.



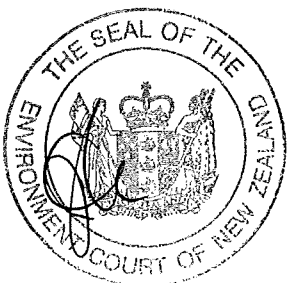
Advice Note 1: *For the avoidance of doubt, the existing bottling line will continue to operate as far as practicable throughout the expansion and development of the site.*

4. Plan Approval

- (a) Prior to site construction works commencing on the site, final site development construction plans shall be submitted to the General Manager Planning and Infrastructure or delegate, Whakatāne District Council, to certify that the works are in general accordance with the information submitted with the application.
- (b) Prior to building construction works commencing on the site, final building and landscape construction plans shall be submitted to the General Manager Planning and Infrastructure or delegate, Whakatāne District Council, to certify that the works are in general accordance with the information submitted with the application.
- (c) At the same time each of the plans in (a) and (b) above are submitted to the Council for certification, they shall be provided to the NLG, for its information.

Road Upgrade Plan

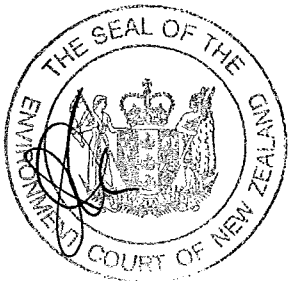
- 5. Prior to site construction works commencing on the site, a final Road Upgrade Plan, developed in consultation with the NLG, shall be submitted to Manager of Transportation or delegate, Whakatāne District Council, providing detailed design including swale and berm design, line marking, signage and timing of physical works to achieve the road upgrades recommended in the Transport Assessment Report (dated 20/9/2017) which formed part of the application, including but not limited to:
 - (a) The proposed widening of Johnson Road and Hallett Road between the site and SH34, to a minimum width of 7.5m;
 - (d) The Hallett Road / SH34 intersection upgrade to accommodate increased turning demands;
 - (e) The pavement upgrade of Johnson Road and Hallett Road including timeframes for implementation;
 - (f) The 2m wide (minimum) shared path for walkers, cyclists and horse riders along one side of Hallett Road and Johnson Road between the SH34 intersection and the site, provided that from the intersection of Hallett Road and SH34 to the intersection of Hallett Road with Johnson Road the shared path shall be located on the southern side of the roadway;



- (g) The swale and berm upgrade on both sides of Hallett Road and Johnson Road between the site and SH34;
- (f) Proposals for the removal and trimming of trees in the road berm; and
- (g) Proposals for the planting of trees in the road berm only where supported by the Whakatāne District Council and the adjoining property owners. Species shall be selected in accordance with Chapter 7 Landscaping of the Engineering Code of Practice 2008.

No road upgrade works shall be undertaken until the Council has certified that the proposed works are in accordance with the approved documents.

6. The road upgrade works to widen the road and strengthen and upgrade the pavement shall be completed prior to any site construction works commencing on site unless agreed otherwise by the Council as necessary to minimise damage to the final road construction and/or shorten the construction programme, in which case those works shall be completed as soon as practicable thereafter. The road works must achieve a smooth surface with discontinuities in wheel paths minimised.
7. Prior to site construction works commencing on the site, the Consent Holder shall obtain written approval from the NZ Transport Agency to undertake works specified in the Road Upgrade Plan at the intersection of Hallett Road and State Highway 34 in accordance with The Transport Agency's Planning Policy Manual Diagram E Standard.
8. In the design and preparation of tender documents for the road upgrade works the consent holder shall locate water supply infrastructure and other underground services which have the potential to be affected by activities authorised by this consent. Contract plans for the road upgrade shall be provided to the Whakatāne District Council 3 Waters Department for comment prior to tender to ensure that water supply and underground services have been located and shown on the plans and adequate measures are in place for their protection.
9. The consent holder shall take all reasonable care to ensure that water supply infrastructure and other underground services are protected from the activities authorised by this consent. In the event that any water supply infrastructure or other underground services are damaged, the consent holder shall contact the Whakatāne District Council 3 Waters Department as soon as the damage is discovered, and give direct notice to the NLG as well as all affected parties, and, to the extent the damage resulted from the consent holder's failure to take reasonable



care, shall reimburse Whakatāne District Council for all costs associated with repairing and/or replacing the damaged water supply infrastructure and other underground services, including reasonable costs associated with any failure of water supply.

Traffic Monitoring Plan

10. Before Stage 1 commences the Consent Holder shall submit to the Manager of Transportation or delegate, Whakatāne District Council, for certification a Traffic Monitoring Plan for monitoring traffic movements at the intersection of Hallett Road and State Highway 34 and at the intersection of State Highway 34 and State Highway 2. The purpose of the Traffic Monitoring Plan is to achieve the requirements specified in condition 11.
11. Traffic Monitoring shall be undertaken by (or under the supervision of) a suitably qualified and experienced traffic engineer or consultancy, and shall include:
 - (a) A monitoring regime to be undertaken annually by 30 November until three (3) years after the total operation (stages 1 and 2) is fully operational;
 - (b) Monitoring shall cover morning, evening and inter-peak;
 - (c) Annual crash analysis of all vehicle movements at the intersection of Hallett Road and State Highway 34 and at the intersection of State Highway 34 and State Highway 2;
 - (d) Monitoring locations identified and agreed with Whakatāne District Council in consultation with NZ Transport Agency; and
 - (e) Comparison with the Traffic Assessment Report dated 20 September 2017 that forms part of the approved documents.
12. The consent holder shall submit the results of the monitoring undertaken in accordance with condition 11 to the Manager of Transportation or delegate, Whakatāne District Council, within two months of the monitoring being completed each year, and shall, at the same time, provide a copy of the results to the NLG for its information.
13. Following receipt of the results of the monitoring submitted under condition 12, Whakatāne District Council may review the conditions of consent pursuant to Section 128 of the Resource Management Act 1991 for the purpose of determining:



- (a) whether any additional conditions, or amendments to conditions, are required to address the impacts of Stage 1 and Stage 2 on the State Highway 34 and Hallett Road intersection and/or address impacts of the expansion to the existing activity on the State Highway 34 and State Highway 2 intersection;
 - (b) where the results of the monitoring identify that the intersection of Hallett Road and State Highway 34 is classified as 'High risk' (as defined by The Transport Agency High risk intersection guide) the Council shall require the Consent Holder to consult with the NZ Transport Agency and report back to Council on the appropriate intervention; and
 - (c) whether monitoring should be continued beyond the 3 year requirement in condition 11(a).
14. Notwithstanding condition 13, under any such review, as outlined above, additional mitigation shall only be required if the monitoring results demonstrate that the effects arising from the exercise of this consent exceed those contemplated by the 57 Johnson Road Water Bottling Plant - Transport Assessment report dated 20 September 2017, that forms part of the application.

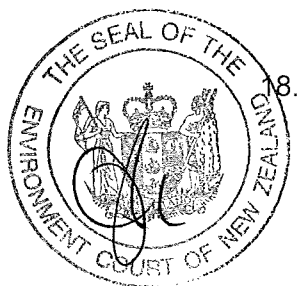
Intersection Lighting

15. Prior to the commencement of Stage 1, the Consent Holder shall ensure that full intersection lighting at the intersection of State Highway 34 and Hallett Road is designed and approved in accordance with The Transport Agency's 'M30 Specification and guidelines for Road Lighting Design, 2014'.

Site Access and Parking

16. Prior to commencement of Stage 1 on site, the existing vehicle crossing shall be upgraded and constructed to comply with Standard Drawing R09 of Council's Engineering Code of Practice.
17. The dimensions of all access ways within the site, all parking spaces and manoeuvring aisle widths shall meet or exceed AS/NZ 4121 requirements. Engineering design drawings for the proposed parking and loading bay areas including disabled parks shall be submitted to Council for certification that the design standards are met, prior to works commencing on site.

18. All access ways, parking spaces and loading bay areas shall be sealed before the commencement of operation of Stage 1 in accordance with this consent.



19. A minimum of 70 car parks, including 64 staff car parks and 6 contractors parks, shall be provided on site. Disabled parking shall be provided in accordance with AS/NZ 4121.
20. All car parking spaces shall be clearly marked on site in accordance with the certified plan and AS/NZ 4121.
21. The consent holder shall ensure that there is no car parking associated with the operation of the plant on the public road.

Shipping Container Storage

22. The total number of shipping containers measured as Forty-Foot Equivalent Units (FEUs) on the site at any one time shall not exceed 50 and shall not be stacked.

Advice Note 2: *For the purposes of this condition, two twenty-foot containers or Twenty-Foot Equivalent Units (TEUs) count as one FEU.*

Staff Travel Plan

23. Prior to commencement of Stage 1 the consent holder shall prepare and submit to the General Manager Planning and Infrastructure or delegate, Whakatāne District Council, for certification a staff travel plan to be implemented as staff numbers on site increase. The purpose of the staff travel plan is to minimise the numbers of staff vehicles accessing the site and reduce on-site parking demand. The staff travel plan shall include but not be limited to:
 - (a) A description of how staff will travel to the site and arrangements for shared transportation;
 - (b) Staged implementation according to numbers of staff on site; and
 - (c) A process for amendment and certification by Whakatāne District Council.
24. The Staff Travel Plan shall be reviewed 12 months following the commencement of Stage 2 on site and at 5 yearly intervals thereafter in accordance with the plan.

Signage

25. Prior to any construction works being undertaken on the site, roading network or pathways, traffic directional signage shall be installed at the intersection of Hallett Road and Johnson Road including signage preventing truck access down Hallett Road.



Level Crossing Upgrade

26. Prior to the commencement of Stage 1 on site, the consent holder shall implement the recommendations in the report titled 'Level Crossing Safety Impact Assessment (LSCIA) Hallett Road, Otakiri, Bay of Plenty' dated 8 March 2018, unless otherwise required below. The upgrade shall comprise:

- Review signs and markings to comply with TCD Part 9
- New Half Arm Barriers
- New Flashing Lights and Bells for both approaches
- Install new Epiflex rubber panels across crossing and reseal approaches
- Paint yellow hatching at rail crossing, to provide adequate space to prevent large vehicles being parked over the level crossing.
- Widen roadway to improve access for larger vehicles
- Widen shoulders on both sides of the crossing at the intersection to use as refuge for larger vehicles
- Hatching shall be designed to ensure that a large vehicle is not required to park on the crossing.

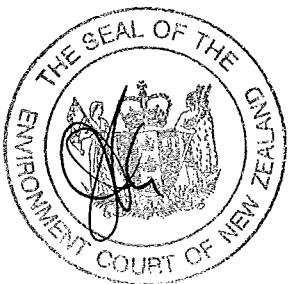
Detailed plans of the upgrade works shall be submitted to the Manager of Transportation, Whakatāne District Council for certification prior to the level crossing upgrade works commencing. The plans shall also be provided to the NLG for its information at the same time.

Advice Note 3: Works at the level crossing require KiwiRail's' prior approval via a 'Permit to Enter'. Details of how to apply can be obtained from the KiwiRail website at:

<http://www.kiwirail.co.nz/infrastructure/northern-region-rail.html.html>

Visual

27. The colour of all buildings (including those associated with existing bottling plant as at May 2018) including the roofs shall be finished in green or brown natural colours. Reflectance values for roofs shall be no greater than 10% LRV and walls no greater than 35% LRV.



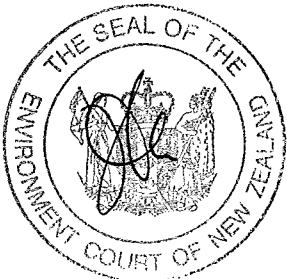
28. The shelter belts around the site shall be maintained to the following minimum heights:
- (a) along the southern, western and northern sides of the site – 12m;
 - (b) along the eastern side of the site – 10m.

Landscape Management Plan

29. Prior to commencement of Stage 1 on site, a Landscape Management Plan (including a Landscape Planting Plan and a Landscape Specification), shall be prepared by a suitably qualified professional (such as an NZILA registered landscape architect) and submitted to the General Manager Planning and Infrastructure or delegate, Whakatāne District Council, for certification. It shall also be provided to the NLG for its information, at the same time. The purpose of the Landscape Management Plan shall be to provide for the implementation of the Landscape and Visual Effects Assessment. The Landscape Planting Plan shall be generally in accordance with the Indicative Mitigation Planting Plan, Beca Ref: 2663104 and Cross-sections, dated June 2019 (**Attachment C**). The Landscape Management Plan shall achieve condition 30.
30. Landscape Management shall include, but is not limited to, the provision of:
- (a) at least 50 specimen trees to be of minimum grade PB 150 at the time of planting and that will attain a height of at least 15m;
 - (b) replacement trees to fill gaps and replace dead and dying trees in the shelterbelt as required using *Casuarina* or *Cryptomeria* capable of reaching a minimum height of 12m;
 - (c) an additional row of hedge trees (either *Casuarina* or *Cryptomeria*) to be planted along the south and eastern boundaries and on the inside of the existing shelterbelt;
 - (d) planting located on private property, subject to approval by affected property owners, and/or road reserve, subject to approval by Whakatāne District Council, to mitigate the visual effects of trucks entering or leaving the site on 58 and 58A Johnson Road while not adversely affecting traffic safety;
 - (e) ground treatment for the additional row of hedge trees along the eastern boundary that would assist with the establishment of those trees and enhance the opportunity for them to be established and grow to healthy maturity;



- (f) a Landscape Specification that shall accompany the Landscape Planting Plan and shall be consistent with industry good practice. The Landscape Specification shall include, but not be limited to:
- (i) **Site preparation** – including site clearance, removal of weed species including privet and willow, soil preparation, top soil supply and placement, ground surface levelling and treatment;
 - (ii) **Planting** – including the supply, delivery, placement and planting of trees as well as bark mulch, fertilising and watering. Planting shall include replacement *Casuarina* or *Cryptomeria* to provide infill where weed removal has resulted in gaps in the existing shelterbelt. The size, number and location of trees shall be determined and planting shall be completed in the first planting season following completion of site works;
 - (iii) **Maintenance** – including mulching, weed and pest control, staking, pruning and replacement of dead and/or dying plants, including after storm events. Specific provision for annual trimming of the inside of the hedges around the site and, where possible, on the external side of the shelterbelt shall be made subject to agreement with the neighbouring landowners;
- (g) The submission of a Practical Completion Certificate by a suitably qualified professional (such as an NZILA registered landscape architect) to the Council within one month of the completion of the planting required to generally comply with the Indicative Mitigation Planting Plan and Cross-sections (**Attachment C**). “Practical Completion” shall have the same meaning as that is referred to in 10.4.1 NZS3910:2013 Conditions of Contract for Building and Civil Engineering Construction.
31. Landscaping shall be implemented and maintained in accordance with the certified Landscape Management Plan. The consent holder may submit amendments to the Landscape Management Plan for the purposes of amending the specifications provided in accordance with condition 29 to the General Manager Planning and Infrastructure Whakatāne District Council or delegate, for their certification at any time. No changes to the Landscape Management Plan shall be implemented until the consent holder has received certification of the changes from the Whakatāne District Council.



32. Five years after the submission of the Practical Completion Certificate the consent holder shall engage a qualified landscape architect to review and report on the effectiveness of the mitigation measures.
33. Following receipt of the results of the report submitted under condition 32 Whakatāne District Council may review the conditions of consent pursuant to Section 128 of the Resource Management Act 1991 for the purpose of determining:
1. whether any additional conditions or amendments to conditions are required to address landscape and visual effects; and
 2. whether a further review period beyond the 5-year milestone in condition 32 is required.

For the purposes of (a) above, additional conditions or amendments to conditions shall only be required if the results of the review demonstrate that the effects arising from the exercise of this consent exceed those contemplated by the landscape and visual assessment that forms part of the application.

Truck and Container Movements

34. Hours of operation:

Truck movements to and from the site serving the water bottling plant production inputs and outputs shall be limited to:

- (a) Monday to Friday: 9am-7pm
- (b) Saturday: 9am-2pm

Container Movements within the site shall be limited to:

- (c) Monday to Friday: 7am-8pm
- (d) Saturday : 7am-5pm
- (e) Sunday: 9am-5pm

Container movements on Sundays shall occur on no more than 12 Sundays in a calendar year.

35. Traffic Volume:

The total truck movements to/from the water bottling site at 57 Johnson Road shall not exceed 202 movements per day measured as a rolling 5-day average (excluding



Sundays) to take into account trucks accessing the site on a daily, weekly, monthly or irregular basis. The consent holder shall annually, or on request, provide to the Council a record of the number of truck movements per day for the previous 12 months.

Interpretation:

*For the purposes of interpreting conditions 34 and 35, "truck movements" shall include all vehicles entering or leaving the site which are classified as class 4 or greater (NZTA EEM Class MCV, HCV1 and HCV2) on the table titled "Vehicle Classification Scheme (NZTA 2011)", a copy of which is attached to this consent as **Attachment B**, and one truck movement shall be the passing of one truck at the site entrance.*

External Activities on Site

36. During the operation of the water bottling plant no activities outside the buildings may be undertaken during the period from 10pm to 7am on any night, including loading and/or unloading containers or other external operational activities, except for staff manually attending to utility services, or staff arriving and leaving the site in light vehicles, or in the case of an emergency. The external doors, including roller doors, shall be kept closed during that period.

Noise

37. All operational activities on site shall be designed and operated to comply with the following noise levels when measured within the notional boundary of any rural dwelling:

- (a) Monday to Sunday 7:00am to 10:00pm: 50dB LAeq
- (b) At all other times including Public Holidays: 40dB LAeq and 70dB LMax

The noise level shall be measured in accordance with the requirements of NZS6801:2008 Acoustics - Measurement of Environmental Sound and assessed in accordance with the requirements of NZS6802:2008 Acoustics - Environmental Noise.

38. A solid noise barrier 2.4m in height with a surface mass of at least 10 kg/m², such as 20 mm timber, shall be constructed and maintained adjacent to the site boundaries as shown on Site Plan 2663104-AR-101 Rev 01, Beca, 12 June 2019. The fence shall be finished in natural wood colours.



39. There shall be no tonal reversing alarms operated on the site.
40. At the time of application for building consent an acoustic design certificate from a suitably qualified and experienced expert shall be provided to the General Manager Planning and Infrastructure or delegate, Whakatāne District Council, to demonstrate that the fence required by condition 38 will achieve noise attenuation in accordance with condition 37.
41. Within 3 months of each stage of the water bottling operation commencing on site, monitoring shall be undertaken and a report prepared by a suitably qualified and experienced acoustic engineer demonstrating compliance with the noise levels stated in condition 37. Where compliance cannot be demonstrated the report shall specify additional works required to achieve compliance and they shall be put into effect within 3 months of the report being submitted.
42. The consent holder shall use reasonable endeavours to ensure that heavy vehicle operators serving 57 Johnson Road plant production inputs and outputs:
- (a) travel at no more than 40 km/h;
 - (b) prohibit engine braking;
 - (c) promote best practice measures to exercise steady progressive braking and acceleration between the intersection with State Highway 34 and the site; and
 - (d) not park, wait or queue on Johnson Road or Hallett Road.

The reasonable endeavours shall include incorporating a contractual requirement on operators to comply with the requirements of this condition.

Advice Note 4: *For the avoidance of doubt this condition does not apply to heavy vehicle operators providing ancillary services to the activity such as waste trucks, IBC trucks, Diesel tankers and LPG tankers as identified in the Operational Summary, Appendix E, Variation to Consent Conditions 61/4/817 and Land Use Consent for the Disturbance of Contaminated Soils, prepared by Beca, 22 September 2017.*

43. Within 3 months of the commencement of this consent, the consent holder shall write to the owners of the following properties, offering to provide acoustic treatment in the form of double-glazing, provided to a minimum standard of 4mm glass with a 12mm airspace and 6.38mm laminated glass, of the windows on the face(s) of the dwellings nearest the site (as indicated on the plan 2663104-AR-K01, 18 June 2019,



Attachment D). If the offer is accepted and reasonable access provided, the consent holder shall undertake the necessary works as soon as practicable thereafter. A copy of the letter and a list of the addressees shall be provided to the Whakatāne District Council at the time it is provided to the property owners. On completion of the works agreed the consent holder shall provide to the Whakatāne District Council confirmation of the works undertaken.

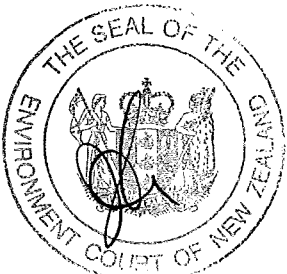
The properties are:

- 410 Hallett Road
- 408 Hallett Road
- 406 Hallett Road
- 29 Johnson Road
- 58 Johnson Road
- 58A Johnson Road
- 363 Hallett Road

External Lighting

44. Subject to conditions 45 and 46 below, all outside lighting to be installed on site shall comply with the lighting and glare requirements in 11.2.16 Lighting and Glare in the operative District Plan.
45. For the hours:
- (a) Monday to Friday: before 7am and after 8pm;
 - (b) Saturday: before 7am and after 5pm;
 - (c) On the 12 Sundays a year when container operations are undertaken: before 9am and after 5pm;
 - (d) Otherwise on a Sunday: at all times;

all external lighting shall be restricted to domestic scale internal lighting at the gate house. Localised sensor based lighting for the outside utilities and low-level way-finding lighting from the car park to the main building shall be operated by way of



motion sensors. All lighting shall be directed downwards with a tilt of no more than +5 degrees.

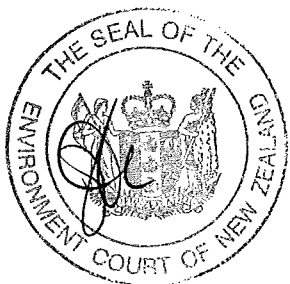
46. Prior to building construction commencing on the site an external lighting plan shall be prepared in consultation with the Neighbourhood Liaison Group (**NLG**) (condition 64) and submitted to the General Manager Planning and Infrastructure or delegate, Whakatāne District Council, for certification that it achieves the requirements of conditions 44 and 45. Evidence of consultation and agreement, or in the event that agreement is not reached a summary of areas of disagreement, to the lighting plan shall be provided to the Whakatāne District Council at the time of submission. The lighting plan shall show the number, location, mounting height, tilt angle and specification including light distribution of all external lights. Where practical the external lights shall be screened from the direct line of sight of neighbouring dwellings existing at the time of this consent.

Accidental Discovery Protocol

47. Prior to undertaking any earthworks at the site, the consent holder shall consult with Ngāti Tūwharetoa ki Kawerau, Te Rūnanga o Ngāti Awa and Ngāti Rangitahi to confirm an accidental discovery protocol to be implemented during any earthworks. A record of this consultation shall be provided to the General Manager Planning and Infrastructure or delegate, Whakatāne District Council, on completion.
48. In the event of any archaeological site or kōwhiri being uncovered during the earthworks, activities in the vicinity of the discovery shall cease. The consent holder shall immediately inform Ngāti Tūwharetoa ki Kawerau, Te Rūnanga o Ngāti Awa and Ngāti Rangitahi, Heritage New Zealand, the Whakatāne District Council and the New Zealand Police (where relevant) of the find. The consent holder shall then consult with the iwi authorities and Heritage New Zealand and shall not recommence works in the area of the discovery until the relevant Heritage New Zealand approvals or other approvals to damage, destroy or modify such sites have been obtained, where necessary.

Construction Noise

49. Construction activities shall comply with the requirements of NZS6803:1999 Acoustics - Construction Noise with reference to the long-term construction event, except where modified by the conditions of this consent.



50. Construction noise as received at any occupied dwellings in the vicinity of the site shall not exceed the following:

Noise Limits (dBA)			
Mon-Fri (07.30-18.00) Sat (07.30-12.00)		Sat (12.00-18.00)	
Leq	Lmax	Leq	Lmax
70	85	55	75
No construction works shall be undertaken on the site between the hours 18.00 and 07.30 or on Sundays or Public Holidays			

51. The consent holder shall undertake noise monitoring at the boundary of the site opposite the nearest occupied dwellings at the commencement of any new noisy construction activity, or as reasonably requested by Whakatāne District Council, for the duration of earthworks being undertaken on the site and shall report back to the Whakatāne District Council, and the NLG, compliance monitoring adjusting for results equivalent to results within the notional boundary of the dwelling.

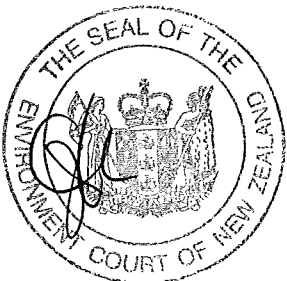
Construction Management Plan

52. Prior to the commencement of earthworks on the site the consent holder shall prepare and submit a Construction Management Plan to the Manager Building & Monitoring, Whakatāne District Council, for certification. The consent holder shall also provide a copy to the NLG, for its information. The purpose of the Construction Management Plan is to manage the effects of construction activities on the site. The Construction Management Plan shall comprise and may be certified in whole or in accordance with its constituent sub-plans being:

- A Construction Management – General Plan
- A Construction Noise Management Plan
- A Construction Vibration Management Plan
- A Construction Traffic Management Plan

53. The purpose of the Construction Management Plan shall be to manage the actual and potential effects of construction including, but not limited to:

1. Construction programme;
2. Managing, refuelling, maintaining and storing vehicles or equipment on site and the location of any temporary site accommodation;

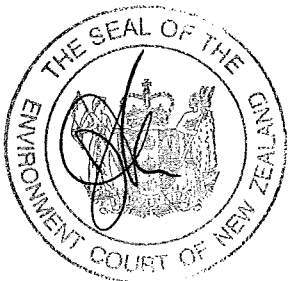


3. Site security;
4. Emergency response;
5. Noise;
6. Vibration;
7. Erosion and Sediment Control;
8. Traffic management; and
9. Effects on the environment, including effects on Hallett Drain.

The Construction Management Plan shall address as a minimum the requirements of conditions 54 to 57.

Construction Management - General

54. The Construction Management Plan - General, shall include a copy of these conditions and shall address the following requirements:
- (a) An outline of the detailed construction programme for the duration of the works
 - (b) A Construction Management Site Plan showing the location of any refuelling, vehicle or equipment storage, security fencing and temporary site accommodation areas as well as the vehicle washdown area and any temporary erosion and sediment control ponds as required by the Erosion and Sediment Control Plan. The refuelling area must be bunded to an extent sufficient to contain any fuel that may be spilt from the equipment or fuel storage tanks on the site. Provision shall be made for vehicle and equipment washdown to minimise the uncontrolled transfer of material from the site to the surrounding area;
 - (c) Details of site security measures to be implemented to ensure the exclusion of unauthorised personnel including security fencing or other means of securing the boundary of the site, entry management measures and measures to be implemented when construction activities are not being undertaken; and
 - (d) An Emergency Response Plan in the event that there is a fuel spill, contamination leak into Hallett Drain, or other emergency on the site.



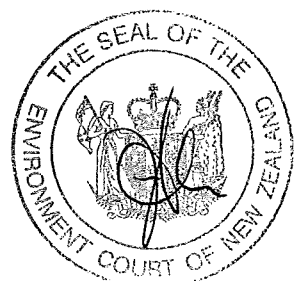
Construction Management - Noise

55. The Construction Noise Management Plan shall, as a minimum, address the following:
- (a) Compliance with conditions 49 – 51 Construction Noise;
 - (b) The recommendation of Annex E, Project Management of NZS6803:1999 Acoustics - Construction Noise, including the following matters;
 - (c) Description of the works, anticipated equipment/processes and their scheduled durations;
 - (d) Hours of operation, including times and days when activities causing noise and/or vibration would occur;
 - (e) The construction noise and vibration criteria for the project;
 - (f) Identification of affected houses and other sensitive locations where noise criteria apply including a list of Noise Sensitive Receivers (as defined in NZS 6803:1999 'Acoustics — Construction Noise');
 - (g) Mitigation options including alternative strategies where full compliance with the relevant noise criteria cannot be achieved;
 - (h) Methods and frequency for monitoring and reporting on construction noise;
 - (i) Stakeholder communications, including the information to be provided to affected neighbours and the NLG;
 - (j) Complaints processes; and
 - (k) Operator training procedures and expected behaviours.

The complaints processes will be available to the neighbours 24 hours a day 7 days a week for the duration of the construction period.

Construction Management - Vibration

56. The Construction Vibration Management Plan shall address the actual and potential effects of vibration generated by the equipment being utilised on site on the foundations of buildings and structures within the vicinity of the site as measured and evaluated in accordance with German Standard DIN 4150-3:1999–02 *Vibration in buildings—Part 3: effects on structures*. The Plan may include:



- (a) A preliminary survey of the foundations of all buildings and structures within 200m of the boundary of the site;
- (b) Visual surveys of foundations of the buildings initially inspected at the request of the owners throughout the earthworks period;
- (c) A final survey of all the buildings and structures initially inspected prior to the commencement of Stage 1; and
- (d) The findings of all surveys are to be recorded and reported to the owners of the buildings, and with the owners' approval, the NLG, and the Plan shall outline the actions to be taken in the event that any damage to buildings or structures is identified.

Construction Management - Traffic Management

57. A Construction Traffic Management Plan shall be prepared in accordance with Whakatāne District Council Traffic Management Plan, and in consultation with the NLG, and shall address the actual and potential effects of construction traffic accessing the site including, but not limited to:

- (a) Hours of operation with reference to condition 50;
- (b) Access route to the site;
- (c) Speed along Hallett Road and Johnson Road with reference to condition 42;
- (d) Circulation within the site;
- (e) Procedures for refuelling within the site (if relevant); and
- (f) Procedures for washdown before returning to the public road.

Construction Management - Reporting

58. During the course of construction the consent holder shall provide weekly updates to the neighbours identified for limited notification, together with the NLG, other directly adjoining landowners and the owners of the properties in Moody Road immediately opposite the site across the Tarawera River, by email or in hard copy delivered to the property where email is not available, on activities proposed for the week following including:

- (a) Programmed activities and their timing;
- (b) Traffic generation resulting from those activities;



- (c) Potential effects, such as dust or noise effects, that may result from those activities; and
 - (d) Contact details for a person in charge of activities on the site who may be contacted 24 hours a day, 7 days a week, for the duration of the works.
59. The consent holder shall maintain a record of all contacts received and corresponding responses to those contacts and shall provide copies of this record to the Whakatāne District Council on request.
60. The consent holder may submit amendments to the Construction Management Plan, including its constituent plans, to the General Manager Planning and Infrastructure or delegate, Whakatāne District Council, for the purposes of amending the specifications provided in accordance with conditions 54 – 57, for certification at any time. A copy of the proposed amendments is to be provided to the NLG at the same time. No changes to the Construction Management Plan, or its constituent plans, shall be implemented until the consent holder has received certification of the changes from the Whakatāne District Council.
61. The consent holder shall undertake all construction works in accordance with the certified Construction Management Plan, or its constituent plan, or any subsequent certified changes.

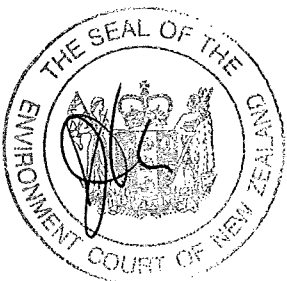
Water Supply Quality

62. The consent holder shall notify the Whakatāne District Council 3 Waters Department at least five working days prior and again at least 48 hours prior to undertaking any purging or cleaning of either bore on the site. It shall also notify the NLG at the same time.

Neighbourhood Liaison Person

63. Prior to the commencement of earthworks on the site, the consent holder shall appoint a Neighbourhood Liaison Person with the responsibility of on-going engagement with the residents along Johnson Road and Hallett Road, including arranging any NLG meetings as required by condition 64.

The consent holder shall notify the Whakatāne District Council, Bay of Plenty Regional Council and all residents along Johnson Road and Hallett Road of the name and contact details of the person appointed.



Neighbourhood Liaison Group

64. The consent holder shall invite all residents along Johnson Road and Hallett Road, and neighbours identified as affected parties on Moody Road to be part of the Neighbourhood Liaison Group (NLG).

The purpose of the NLG will be to provide a regular forum or channel through which neighbours and the consent holder can discuss the construction and operation of the plant. The NLG will also enable opportunities for any concerns and issues of the neighbours to be reported to the consent holder and the Whakatāne District Council, and responded to, by the consent holder.

A representative of each of the Whakatāne District Council and the Bay of Plenty Regional Council shall be invited to attend NLG meetings, unless the NLG wishes to have its own meeting to discuss matters amongst its members.

Topics that the NLG may choose to discuss include:

- (a) The preparation of any management plans required by this consent and construction and operation of the plant including any concerns and issues the neighbours have;
- (b) Monitoring of the effects of the project on the neighbourhood, including but not limited to effects on and opportunities to enhance amenity (e.g. during construction, development, operation and planting); and
- (c) The establishment of a code of conduct for heavy vehicle operators contracted to provide services to the site that may include such matters as speed along Johnson and Hallett Roads and the prohibition of engine braking.

The consent holder shall provide the NLG with copies of all monitoring undertaken including; construction noise, vibration surveys, ecological, sediment and water quality monitoring of Hallett Drain and shall discuss the monitoring results with the group. Any comment or recommendation from the NLG shall be incorporated into the reporting to Whakatāne District Council required in condition 66 and the report shall include a record of any actions taken, or proposed, and reasons for those actions. All actions shall be undertaken in accordance with the conditions of this consent.

The consent holder and the NLG shall prepare and agree a Memorandum of Understanding (MOU) outlining the basis for engagement between the parties. A draft MOU shall be prepared for discussion within 40 working days of invitations



being made to residents to be part of the NLG. The MOU shall incorporate such matters as (but not limited to):

- (a) Membership of the NLG and replacement of members as required over time; and
- (b) Frequency of meetings; and
- (c) Resourcing additional reports that may be needed to investigate matters arising.

66. The consent holder shall maintain a record of the meetings of the NLG and provide copies of this to the Whakatāne District Council, within one month of any meetings being held.

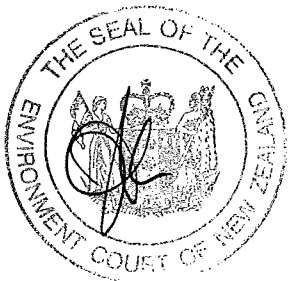
Compliance Audit

67. Annually for the duration of construction works and 12 months after the commissioning of the second water bottling line the consent holder shall engage and resource an independent suitably qualified professional to audit compliance with these conditions of consent. The independent professional shall report to the Whakatāne District Council, the consent holder and the NLG on their findings within 40 working days of being engaged. The consent holder shall provide a response to the recommendations of the audit with a programme of any actions required to the Whakatāne District Council and the NLG within 20 working days of the audit's submission.

Complaints

68. The consent holder shall identify a single point of contact and at least one support person (available 24 hours a day) so that any member of the public may register complaints with them with regards to any aspect of the construction or operation of the plant. The consent holder shall maintain a register of complaints including date received, details of the complaint, a record of the response and close out actions with the person who lodged the complaint. The register shall be available for viewing during daytime working hours (8.00am – 5.00pm, Monday to Friday) and the consent holder shall report any new complaint received, and resulting close out actions, to the Whakatāne District Council within 5 working days of receipt.

Advice Note 5: *Nothing in this consent shall limit the ability of any member of the NLG or any other member of the public from exercising their rights under the Resource Management Act to complain to the Whakatāne District Council or to the*



consent holder if, in their view, the conditions of this consent have not been complied with.

Monitoring Charge

69. A monitoring fee of \$1,000.00 shall be paid to the Council as a single charge for the initial administration, monitoring and supervision of this consent. The cost of further monitoring activities including site inspections, carrying out tests and measurements, reporting, and any related administration shall be paid on an actual and reasonable cost basis in accordance with the General Conditions and Notes of the Fees and Charges Schedule as approved by the Council under Section 36 of the Resource Management Act 1991.

Further Advice Notes:

6. *The nature, scale and scope of the building works to be undertaken as part of this development is such that it will be outside the parameters of the non-specific building design codes. Accordingly the building works will be subject to specific design by appropriately qualified engineers.*
7. *This consent does not authorise the use and storage of hazardous substances on site that is not permitted under the Whakatāne District Plan. An application for resource consent will be required unless compliance can be demonstrated with the requirements of the District Plan. The Manager of Building and Compliance will require appropriate certification to be supplied demonstrating that the relevant provisions of the HASNO legislation are complied with before the facilities for Stage 1 are commissioned.*

