

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

ENV-2023-AKL-000160

AT AUCKLAND

UNDER the Resource Management Act 1991 (the Act)

IN THE MATTER of applications for resource consents by Allied Asphalt Ltd associated with the construction and operation of an asphalt plant

BETWEEN **ALLIED ASPHALT LIMITED**
Applicant

AND

BAY OF PLENTY REGIONAL COUNCIL
Consent Authority

AND

TAURANGA CITY COUNCIL
Consent Authority

CONSENT AUTHORITIES' CLOSING SUBMISSIONS

12 JUNE 2024

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MAY IT PLEASE THE COURT:

INTRODUCTION

1. This direct referral application was heard before Judge Dickie, Commissioner Hodges and Commissioner Bartlett between 13 and 17 May. The hearing was adjourned, with the Consent Authorities' closing submissions to be provided in writing by 12 June.¹
2. These closing submissions address any outstanding areas of difference between the Applicant and the Consent Authorities following the hearing, and respond to matters raised during the hearing by the Court and s 274 parties which were not addressed in opening.

OUTSTANDING ISSUES

3. While the Consent Authorities' position in opening remained one of general support for the application,² this was subject to resolution of several outstanding issues which were expected to be addressed further during the hearing. These issues are addressed below.

Cumulative health effects assessment

4. A concern raised by Dr Wilton in her primary evidence, and maintained in her Executive Summary presented in oral evidence (and pre-circulated to Dr Dennison),³ related to the absence of a cumulative effects assessment in the written evidence of the Applicant's expert, Dr Denison, which was based on an "incremental" approach to health effects.⁴
5. When presenting evidence during the hearing, Dr Denison produced a supplementary statement outlining her calculation of the cumulative risk of health effects, based on the ESR Report⁵ taken together with the additional risk from the proposed asphalt plant. The supplementary statement concluded that the estimated contribution for both the existing and

¹ Being five days following receipt of the transcript, which was received on Wednesday 5 June 2024. Directions contained in Minute of the Court dated 21 May 2024 at [1].

² Refer Opening Legal Submissions for the Consent Authorities dated 15 May 2024 (**Opening Submissions**), paras 4-6.

³ Executive Summary of Dr Wilton dated 13 April 2024, para 6.

⁴ Opening Submissions at para 11.2, and Dr Wilton's summary statement at [6].

⁵ *Air Pollution: Health Risk Assessment Mount Maunganui*, prepared by ESR for Toi Te Ora Public Health, dated 1 June 2023.

proposed plants to the overall estimate of deaths reported in the ESR report was negligible.⁶

6. When responding to the supplementary statement during her oral evidence, it was Dr Wilton's opinion that a cumulative risk assessment would typically include information such as the assumptions made around improvement and details of the health points relied upon. However, Dr Wilton reached the overall conclusion that the estimates included in the supplementary cumulative assessment seemed sensible and consistent with her expectations.⁷

Proposed production rates and caps

7. At the start of the hearing, the Applicant proposed to cap current plant production at 80,000 tonnes per year (T/Y), to accommodate potential required production volumes.⁸ The Consent Authorities' position was that production at the existing plant should be capped at the current production level of 68,000T/Y (rounded up to 70,000T/Y), to ensure adverse effects did not increase over the short term particularly in relation to odour.⁹
8. When giving evidence, Mr Batchelar advised that the Applicant now accepted that, in the context of the application, a limit of 70,000T/Y was appropriate.¹⁰ This limit is reflected in the revised conditions circulated by the Applicant following the hearing in accordance with the Court's directions.¹¹
9. At the commencement of the hearing the Applicant proposed that production at the new plant would be limited to 3,500 tonnes per day and 300,000T/Y.¹² In her executive summary Dr Wilton remained concerned that the proposal to increase production rates from the new plant would erode some of the health benefits expected to occur due to adoption of the BPO (new plant technology).¹³

⁶ Calculation of Cumulative Risk for Allied Asphalt Consent Application, Dr Denison, written statement circulated by email on 15 May 2024.

⁷ Transcript at 312.

⁸ Reply evidence of Brian Palmer, para 13.

⁹ Evidence of Danielle Petricevich, para 60, and evidence of Robert Muray, para 55.

¹⁰ Transcript at 235.

¹¹ Condition 5, version circulated on 24 May 2024 (**24 May Version**).

¹² Reply evidence of Craig Batchelar, para 5.

¹³ Dr Wilton Executive Summary, para 4.

10. During evidence, Mr Batchelar acknowledged that a 300,000T/Y production limit was conservative, and proposed a new limit of 200,000T/Y based on predicted production volumes in 20 years' time. Mr Batchelar also proposed a provision to allow increased production limits in exceptional circumstances, such as large capital works projects or natural hazard recovery.¹⁴
11. When giving evidence, Dr Wilton considered this amended proposal to result in a proportional improvement or health benefit that is directly correlated to the value or the amount of the reduction that is proposed.¹⁵ Ms Petricevich considered that an upper limit of 300,000T/Y should be imposed, and that the particular exceptional circumstances justifying the discretionary increase should be further defined.¹⁶ The 24 May Version of the conditions reflects these comments.¹⁷

Enclosure of the loadout

12. Mr Murray's executive summary reiterated his view that, in order to minimise odour, partial enclosure of the loadout area should occur from commencement of operations from the new plant.¹⁸ Ms Simpson did not agree that enclosure should be required from commencement of operations. In her opinion the extraction system will reduce odour effects and therefore she preferred an approach involving monitoring of odour from the loadout and partial enclosure if issues arise.¹⁹
13. During the hearing, discussion focussed on the need for a quick response to any odour arising from the loadout, and the potential for alternative methods of enclosure (the testing of different and more readily available materials for enclosure such as curtains and plywood, for example).²⁰
14. The Applicant has proposed a number of changes to the conditions concerning enclosure of the loadout.²¹ Mr Murray has reviewed these changes and considers the conditions to be satisfactory.

¹⁴ Transcript at 235.

¹⁵ Transcript at 313.

¹⁶ Transcript at 330.

¹⁷ See conditions 9 – 13.

¹⁸ Executive Summary of Robert Murray dated 13 May 2024, para 5.

¹⁹ Transcript at 134.

²⁰ Questions from Cmr Hodges to Mr Murray, transcript at 308.

²¹ Refer to Condition 35, 24 May Version.

Use of resin mixes

15. In his executive summary Mr Murray reiterated his concern that there was limited assessment of offsite health effects where resin mixes were being manufactured.²² When giving evidence, Ms Simpson provided some additional assessment and calculations concerning the use of resin materials, concluding that the resulting concentration would be 0.2% of the relevant guideline value, and the effects minimal.²³
16. Mr Murray accepted this assessment, but explained that his concern also related to the effect of potential new resin mixes in the future, which he considered should be addressed through a condition.²⁴ No condition has been proposed by the Applicant. Mr Murray has recommended additions to the Air Quality Management condition to allow the addition of any new additives in the asphalt manufacturing process to be dealt with through the bi-annual Air Quality Management Plan.²⁵

Recycled Asphalt Paving (RAP)

17. In his executive summary Mr Murray reiterated his view that the addition of RAP during production should be limited to 30%, based on the odour effects assessment having assessed this maximum volume.²⁶
18. Mr Batchelar agreed that a condition of consent should restrict the addition of RAP to 30%.²⁷ Such a condition has been included in the 24 May Version of the conditions.²⁸

Consent duration

19. In her executive summary Ms Petricevich maintained her view that the 35 year consent term sought by the Applicant was appropriate in light of the significant investment required to invest in the BPO. However, reflecting on a comment made by Commissioner Hodges, she also acknowledged that a 20 year term is another available approach, which reflects the maximum consent duration in the NES-GHG. Nevertheless, Ms

²² Executive Summary of Robert Murray, para 9.1.

²³ Transcript at 136.

²⁴ Transcript at 299.

²⁵ Condition 41. See Attachment 1.

²⁶ Executive Summary of Robert Murray, para 9.2, referring to Simpson Reply Evidence, para 125.

²⁷ Transcript at 245.

²⁸ Proposed condition 35.

Petricevich expressed the opinion that the review conditions proposed by the Applicant should yield a similar result to that sought by the NES-GHG in requiring ongoing adoption of the BPO.²⁹

20. During the hearing, Mr Batchelar considered that a reduced term of 25 years would be acceptable, and would fit with the proposal for two 10 yearly reviews and then allow for a five-year “transition period” while the consent holder considered its next steps (e.g. apply for renewal, or consider relocation of the plant).³⁰ When giving evidence, Ms Petricevich agreed that a 25 year term would be appropriate.³¹ The Applicant’s proposed conditions of consent have been updated to reflect a 25 year term.³²

RESIDUAL ISSUES

21. No substantive issues remain outstanding between the Consent Authorities and the Applicant.
22. The Consent Authorities have recommended a number of changes and additions to the 24 May Version of conditions. These are tracked in the version appended as **Attachment 1**. Most of the recommended changes are aimed at providing greater clarity and improving enforceability. Where a more substantive change is proposed, the reasoning is summarised below:
- (a) **Term of Consent** – The wording of the term conditions across all consents has been simplified and standardised. This includes the consent duration running from the “date of commencement” (rather than the date of grant). This ensures that, if the consents are granted and appealed, the term will not commence until all appeals are resolved.³³ In relation to the long term discharge consent, the Applicant (in the 24 May Version) has sought a consent duration which would commence when commercial production from the existing plant ceases. The Regional Council has reservations about that approach from a certainty and enforceability perspective. Commissioning of the dryer burner

²⁹ Executive Summary of Danielle Petricevich dated 14 May 2024.

³⁰ Transcript at 276.

³¹ Transcript at 335.

³² Conditions 26 (stormwater consent) and 58 (proposed plant consent), 24 May Version.

³³ This reflects the concept of commencement in s116 RMA.

would be provided for under the new consent. This raises the potential for some operations under the new consent to be required prior to commercial production ceasing under the existing consent. It would therefore seem appropriate for the term of any new consent to commence once any operations (including testing) under the new consent commence, rather than seeking to tie commencement of the new consent to commercial operations under the existing consent ceasing.

- (b) **‘Deemed’ certification** – the Consent Authorities do not support the Applicant’s proposed “default” certification conditions, which would deem certain plans to have been certified if the consent authority has failed to certify them within the specified time period. This has the potential to result in sub-standard plans (which have not been certified by a consent authority) being adopted by default, with sub-optimal sustainable management outcomes. Alternative provisions are proposed in Attachment 1, which would ensure the plans are certified within reasonable timeframes. Ultimately consent authorities are required under the Act to provide certification functions without undue delay (s21).
- (c) **Odour Response Conditions** – The Regional Council is proposing new odour response conditions (based on Mr Murray’s recommendations) for the existing plant (Condition 30) and the proposed new plant (Condition 45). These are considered best practice, and an enhancement on the previous set of conditions, which did not contain any ongoing monitoring requirements for odour.
- (d) **Dust Monitoring** – The previous conditions proposed dust monitoring for the new plant only. The Regional Council recommends that similar obligations are imposed on any run-out consent granted for the existing plant, given the existing issues with PM₁₀ in the polluted airshed. Dust monitoring should enable a more rapid and superior response to any dust issues arising from the yard. Mr Murray advises that monitoring equipment is easy to install, is cost effective, and recommends that it remain in place for at least 2 years on the long term consent.

- (e) **PM_{2.5} limits and monitoring** – When giving evidence, Ms Simpson agreed that PM_{2.5} testing every 5 years is appropriate.³⁴ Other PM_{2.5} discussion at the hearing focussed on the limited existing monitoring data available and background levels of PM_{2.5} in the MMA.³⁵ To address these concerns, the Regional Council recommends that a PM_{2.5} limit be included in any air discharge consent for a new plant, together with some additional stack testing. The Regional Council is proposing that the emission limit value for PM_{2.5} be that used in Ms Simpson’s Air Quality Assessment (0.5 kg/hr).³⁶

RESPONSE TO MATTERS RAISED BY SECTION 274 PARTIES

23. The cases advanced by the s274 parties share some common themes. Toi Te Ora and Clear the Air are concerned that the Mount Maunganui Airshed is degraded and subject to established adverse health effects.³⁷ In addition to physical health effects, Ngāti Kuku is concerned that degraded air quality is giving rise to adverse effects on the mauri of air, restricting its ability to undertake customary practices and exercise kaitiakitanga.³⁸ The relief sought by these parties can be summarised as follows.

Decline of consent

24. Both Clear the Air and Ngāti Kuku seek that consent be declined.³⁹ When providing joint planning evidence on this issue, Mr Scott expressed the view that the locality of the plant (in a polluted airshed) precludes the BPO test being achieved. In his opinion, because alternative receiving environments are required to be assessed under s 105 RMA, and this had occurred to a satisfactory standard, then consent should be declined.⁴⁰

³⁴ Transcript at 136.

³⁵ See for example transcript at 141 and 179.

³⁶ Air Quality Assessment dated December 2022, table 4.2 at page 22.

³⁷ Legal submissions on behalf of National Public Health Service - Toi te Ora, para 5; and Legal Submissions for Clear the Air, para 6.

³⁸ Legal submissions for Ngāti Kuku Hapū and Trustees of Whareroa Marae, para 4.

³⁹ Legal submissions on behalf of Clear the Air, para 6; and Submissions for Ngāti Kuku, para 13.

⁴⁰ Michael Scott statement at [9].

25. However, he accepted under cross-examination that he had conflated the concept of BPO under the RMA and the requirement to assess alternatives under s 105.⁴¹
26. It is submitted that the definition of BPO under the RMA (s2) does not contemplate an examination of the location of the activity. The reference to the sensitivity of the receiving environment relates to the best “method” for preventing or minimising the proposed discharge at the proposed location. The consideration of alternative locations for a discharge is an obligation which arises under s 105, and is merely one matter which the Court must “have regard to” in addition to the other considerations under s104. It is not a matter which is necessarily determinative of the grant of consent, as suggested by Mr Scott. Nor is the Court’s assessment of alternative a merits assessment, as suggested by Mr Scott.⁴² The legal position is that outlined in Counsel’s opening submissions.⁴³

Production limits

27. Toi Te Ora submitted that a production limit on the existing plant of 68,000T/Y is required to control PM₁₀ emissions and that a limit of 75,000T/Y for the new plant is appropriate. In the alternative, it proposed limiting PM₁₀ and NO₂.⁴⁴ Ngāti Kuku support these production limits.⁴⁵ Clear the Air seeks a production limit of 95,000T/Y for the new plant.⁴⁶
28. Mr Murray’s opinion was that rounding the proposed limit from 68,000T/Y to 70,000T/Y for the current plant would be acceptable.⁴⁷ The Consent Authorities’ position is that a maximum limit of 70,000T/Y is appropriate for the existing plant (as now proposed by the Applicant).

⁴¹ Transcript at 431.

⁴² Transcript at 432.

⁴³ Legal submissions on behalf of the Consent Authorities at para 37.

⁴⁴ Legal submissions on behalf of National Public Health Service - Toi Te Ora at para 5.

⁴⁵ Legal submissions Ngāti Kuku Hapū and Trustees of Whareroa Marae at para 13.

⁴⁶ Legal submissions on behalf of Clear the Air at para 6.

⁴⁷ Transcript at 300.

Consent term

29. Toi Te Ora and Clear the Air seek a consent term for any new plant of no more than 10 years.⁴⁸ Ngāti Kuku seek a maximum of five years.⁴⁹
30. Under cross-examination, Dr Shoemack fairly acknowledged that a term of 10 years would be unlikely to provide certainty of investment sufficient to enable investment in the proposed plant, which represents BPO.⁵⁰ Having considered the revised recommendations of Mr Batchelar and Ms Petricevich, the Consent Authorities consider that a term of 25 years, with 10 yearly reviews, is appropriate.

Alignment with Higgins conditions

31. Clear the Air has proposed that the conditions of any short term consent granted for the existing plant should be aligned with those imposed on the *Higgins* consent.⁵¹
32. Mr Batchelar agreed that alignment of the two consents would be appropriate where practicable.⁵² On review of the *Higgins* conditions, Ms Petricevich agreed that some aspects of the Higgins consent could usefully be applied to the existing Allied plant, including the emissions testing, odour assessment, and compliance reporting conditions.⁵³ Having considered these issues further, the Regional Council's position is summarised as follows:
- (a) **Increased Stack Height** – Counsel for Clear the Air suggested that the *Higgins* stack height condition should be carried over to the Allied consent.⁵⁴ The Regional Council's response (following advice from Ms Petricevich) is that stack height was the only mitigation proposed by Higgins for stack discharges, whereas Allied is proposing to mitigate discharge from the old plant by constructing a new plant as soon as possible. Increasing the stack

⁴⁸ Legal submissions on behalf of Toi Te Ora at para 5; and legal submissions for Clear the Air at para 6.

⁴⁹ Legal submissions for Ngāti Kuku Hapū and Trustees of Whareroa Marae, para 13.

⁵⁰ Transcript at 352.

⁵¹ Legal submissions on behalf of Clear the Air, para 6.

⁵² Transcript at 267.

⁵³ Transcript at 325.

⁵⁴ Transcript at 270.

height of the existing plant is not considered to be a necessary mitigation for the Allied proposal;

- (b) **Emissions Testing** – Ms Petricevich has reviewed the emissions testing regime proposed in the Allied conditions and considers this to be aligned with that required by the *Higgins* consent;
- (c) **Odour Assessments** - The odour assessment requirements in the *Higgins* consent are aimed at assessing odour both before and after the stack height increase, to ensure the issue has been resolved. Given Allied are not proposing any stack height increase for the old plant, the Regional Council does not consider the *Higgins* conditions to be applicable. Instead, the Regional Council is proposing odour response conditions to ensure odour monitoring is ongoing and which provide a response procedure for any issues arising (see para 22(c) above).
- (d) **Compliance Reporting Regime** – the *Higgins* consent includes a requirement to report to a Community Liaison Group (CLG) consisting of residents, neighbours, interest groups, tangata whenua and the Regional Council. Ms Petricevich has advised that the *Higgins* CLG condition was imposed primarily for the purpose of keeping all parties updated in relation to progress towards a long term solution for asphalt production at the Higgins site. Given Allied has a proposed a clear pathway towards a BPO solution, Ms Petricevich does not consider there is sufficient uncertainty to justify a condition of this nature.

Mauri of the air and cultural effects

- 33. Ms Ngātuere described how air has its own lifeforce or mauri. During questioning she accepted that, if air is polluted, then mauri is diminished, but if air quality improves, then mauri improves.⁵⁵
- 34. Conditions proposed by the Applicant include a process to develop and implement a Mātauranga Māori Environmental Monitoring Plan (**MMEMP**) together with Ngāti Kuku. Mr Scott agreed that amendments proposed by the Applicant during the course of the hearing, aimed at increasing

⁵⁵ Transcript at 477.

collaboration with Ngāti Kuku, were an improvement.⁵⁶ Ms Ngātūere described a similar collaborative process currently underway to develop a MMEMP for the Tauranga Bridge Marina consent. She confirmed that, in her experience, the process had been positive to date.⁵⁷

35. While acknowledging that every relationship will be different, and will require a proactive and collaborative approach by all parties involved, it is the Consent Authorities' experience that such processes can produce useful results.
36. Counsel for Ngāti Kuku sought an interim decision to allow for a review of consent conditions related to cultural effects and the mauri of the air.⁵⁸ The Consent Authorities' position is that an interim decision is not required, given the hearing has been adjourned to enable a staggered exchange of reply submissions. This process provides an opportunity for all parties to comment on the conditions proposed by the Applicant which were following the hearing.

QUESTIONS FROM THE COURT

37. During the hearing the Court asked counsel for the Consent Authorities to provide an update on two matters arising from the Plan Change 13 process, specifically, whether any studies have been undertaken in relation to residential development and occupation in the MMA, and progress with a potential future plan change ("Plan Change 18") which could address contaminants other than PM₁₀.

Residential occupation within the MMA

38. The Court is aware of anecdotal observations of residential occupation within the MMA, including on vessels with the Tauranga Bridge Marina.⁵⁹
39. The Consent Authorities are not aware of any investigations that have directly addressed the marina occupation issue.
40. While the Regional Council has jurisdiction to control the surface of water activities in the Coastal Marine Area (s30 RMA), there is currently no rule in the Regional Coastal Environment Plan or the Regional Navigational

⁵⁶ Transcript at 433.

⁵⁷ Transcript at 479.

⁵⁸ Legal submissions for Ngāti Kuku Hapū and Trustees of Whareroa Marae, para 13.

⁵⁹ Transcript at 297.

Safety Bylaw 2017 (**Navigation Bylaw**) that prohibits people from living on boats. This area falls outside the jurisdiction of Tauranga City Council, which only controls surface water activities on inland waterways (s31 RMA).

41. The Navigation Bylaw is aimed at ensuring vessels are moored correctly and seaworthy, rather than on boat occupation issues.
42. The Court correctly identified⁶⁰ that some marinas regulate living on vessels through berth licenses.⁶¹

Plan Change 18

43. During the hearing, Counsel advised that the next steps for progressing “PC18” and an Airshed Management Strategy would be discussed at a Regional Council workshop during the week of 20 May.⁶²
44. At the Strategy and Policy Committee workshop held on 21 May, the Committee expressed support for an MMA management plan or strategy which would cover both PM₁₀ and odour. It is proposed that the plan or strategy would be completed within two to three years. Staff intend to report back to Committee in the second half of this year with a proposed project scope. The minutes of the workshop are appended as **Attachment 2**.
45. The development of a further plan change (“PC18”) remains on the agenda as a future workstream, which is expected to be scoped and progressed further following completion of the s 293 process for Proposed Policy 12 (PC13).

Dated 12 June 2024



Mary Hill / Jemma Hollis

Counsel for Bay of Plenty Regional Council and Tauranga City Council

⁶⁰ Transcript at 297.

⁶¹ For example, Tauranga Bridge Marina Limited’s berth licenses prohibit a berth occupier from living on board (sleeping overnight for two or more consecutive nights) without the approval of the Marina Manager

⁶² Transcript at 295.

Attachment 1

Stormwater Discharge (2-year existing plant / 35-year new plant)

A resource consent:

Under section 15(1)(a) of the Resource Management Act 1991 and Rule DW R21 of the Bay of Plenty Regional Natural Resources Plan to undertake a restricted discretionary activity being to discharge stormwater to land where it may enter water.

subject to the following conditions:

Purpose

1. The purpose of this resource consent is to authorise and set conditions on the discharge of stormwater to the Tauranga City Council piped stormwater network from an existing asphalt manufacturing plant on a short-term basis, and from a new asphalt manufacturing plant on the same site once upgrades and replacement of the plant are complete.

Location

2. The activity authorised by this resource consent must be located:
 - (a) At 54 Aerodrome Road, Mount Maunganui.
 - (b) As shown on BOPRC Consent Plan RM2~~23~~-0649/01.
 - (c) At or about NZTM 1882352, 5826246.

Stormwater Management System

3. Prior to the operation of the new asphalt plant, the on-site stormwater management system must be upgraded generally in accordance with:
 - (a) Section 4 of the Beca 'Infrastructure and Services Assessment, Aerodrome Road Asphalt Plant Upgrades', Ref: 3936244- 159207228- 1673 Rev. 1 dated 22 November 2022, and the 'Proposed Services Plan' drawing number 3936244-CA-040 Revision B referenced as BOPRC Consent Appendix RM2~~23~~-0649/01;
 - (b) The Allied Asphalt - Beca Resource Consent Responses Ref: 3936244-159207228-2244 Dated 26 April 2023, referenced as BOPRC Consent Appendix RM2~~23~~-0649/02; and
 - (c) Allied Asphalt, 54 Aerodrome Rd, Mount Maunganui Stormwater and trade waste treatment solutions summary - Industrial Waters Solutions Ltd - 26 April 2023, contained within the Beca Resource Consent Responses referenced as BOPRC Consent Appendix RM2~~23~~-0649/02.

Discharge quantity

4. The discharge must not cause nor contribute to flooding or ponding on any land or property owned or occupied by another person.

Discharge Quality

5. The suspended solids concentration of the discharge must not be greater than 150g/m³, except where a 10-minute duration 10% AEP storm event (10-year return period storm) is exceeded.
6. The discharge must not cause the production of conspicuous oil or grease films, scums or foams, or floatable materials.
7. The discharge must not cause a conspicuous change in the colour of the receiving waters, being the Tauranga Harbour.

Operations Management

8. Any contaminants stored onsite must meet all Hazardous Substances and New Organisms (HSNO) codes of practice and/or Health and Safety at Work Regulations 2017 storage requirements in relation to avoiding leaks or spills of these contaminants.
9. If there is a hazardous substances spill of 20 litres or more:
 - (a) The spill must be reported to the Bay of Plenty Regional Council [as soon as practicable and](#) within [1224](#) hours of the spill
 - (b) The stormwater system must be inspected immediately after the spill, and cleaned or maintained to remove any hazardous substances or any other substance that may impact its effective functioning, and.
 - (c) Within 10 working days of a spill, the consent holder must send a report to the Bay of Plenty Regional Council with the following information:
 - i. The clean-up response carried out;
 - ii. How the spilled hazardous substances and any other materials contaminated by the spill or used in the spill clean-up were disposed of;
 - iii. Documentation of the waste disposal from the authorised disposal facility confirming they received the spilled and contaminated materials;
 - iv. Stormwater analysis results for any stormwater discharges within five days after the spill; and
 - v. The reason that the spill occurred, and actions carried out to avoid future hazardous substance spills.
10. The consent holder must notify the Bay of Plenty Regional Council, in writing, of any upgrades, changes to the stormwater management system, stormwater sub-catchments, site imperviousness, operation and layout of the site which may cause a change in the quantity or composition of the discharges to the Tauranga City Council stormwater network.
11. The site must be swept to remove loose debris from sealed areas at least once per week.
12. No waste material, including chemicals, [swept loose debris](#), washdown water or other cleaning materials must be discharged or disposed of via the stormwater system.
13. All wastes, including chemicals, cleaning materials and all materials removed as part of the maintenance of the stormwater system such as de-sludged sediments shall be recycled or disposed of at a disposal facility authorised to accept the type of waste being disposed of.

Monitoring

14. The upgraded stormwater management system required by Condition 3 must have an easily accessible sampling point which is located prior to any outlet(s) to the Tauranga City Council stormwater network, for sampling and monitoring purposes.
15. Before the site re-development is completed, a plan showing the proposed sampling locations for stormwater monitoring, in accordance with ~~condition~~ [Condition](#) 14, must be provided to the Bay of Plenty Regional Council for certification that the sampling point(s) complies with Condition 14. Any changes to the sampling point(s), including their location, must be provided to the Bay of Plenty Regional Council- for re-certification before samples are collected from them.

16. Once the stormwater system is upgraded, the consent holder must collect samples from the certified sampling point during three rainfall events each year that cause observable run-off. Sampling is only to be undertaken if no rainfall has occurred for three days prior.
17. The samples required by ~~Condition~~**Condition** 16 must be representative of the stormwater discharging from the outlet(s) and, as far as practical, be collected within the first 30 minutes of stormwater being discharged.
Advice note: Capturing first flush of storm events with a Nalgene first flush sampler can provide much better representation and alleviates the need for being on site at time of an event. The alternative is setting an autosampler to capture time/flow proportional samples over an event.
18. Stormwater samples must be analysed for the contaminants listed in Condition 19. Analysis must be carried out as set out in the latest edition of Standard Methods for the Examination of Water and Wastewater, APHA -AWWA-WPCF, or such other method as proposed by the consent holder and certified as good sampling practice by the Bay of Plenty Regional Council. An IANZ registered laboratory must carry out the analysis.
19. The results of the stormwater system sampling and analysis shall be compared to the following trigger levels:

Contaminant	Unit	Trigger Levels
Total suspended solids (TSS)	g/ m3	150
Dissolved Chromium (CrVI)	g/ m3	0.085
Dissolved Cadmium	g/ m3	0.036
Dissolved Copper (Cu)	g/ m3	0.008
Dissolved Nickel	g/ m3	0.560
Dissolved Zinc	g/ m3	0.043
Total Petroleum Hydrocarbons (TPH)	g/ m3	15
Benzene	g/ m3	2.0
Naphthalene	g/ m3	0.120
pH	pH units	Monitor only

20. If any water quality results exceed the trigger concentrations listed in Condition 19, the consent holder must report this to the Bay of Plenty Regional Council within one week of receiving the laboratory results, and take two further samples within three months of the exceedance result (provided there are suitable rainfall events for sampling during this time period) In the event that any of the samples from supplementary monitoring exceed the trigger levels in Condition 19, then the consent holder must identify the cause of the exceedances and report the results and reasons for exceedances to the Bay of Plenty Regional Council within two weeks of receiving the supplementary monitoring results. If the exceedances are due to an activity on the site, the consent holder shall submit a site improvement plan to the Bay of Plenty Regional Council (within 3 months of receiving the supplementary round of sampling results [where trigger levels were exceeded](#)). This shall include:
- a review of the data collected;
 - a review of the potential eco-toxicity effects from the contaminants, undertaken by a person who is suitably qualified and experienced in assessing the effects of stormwater discharges, to determine whether there is likely to be an ecotoxicity effect that is more than minor as a result of the trigger level exceedance(s);
 - recommendations to remedy or mitigate any more than minor adverse eco-toxicity effect that has been identified in accordance with ~~Condition~~**Condition** 20(b) including, but not limited to, additional stormwater treatment or site improvements [to ensure](#) contaminant

concentrations in stormwater from the site consistently meets the trigger levels in Condition 19.

(d) The proposed timeframes and justification of these timeframes within which any measures set out in ~~Condition~~Condition 20(c) will be put in place by the consent holder.

21. Prior to the operation of the new asphalt plant, an Operations and Maintenance Plan for the upgraded stormwater system must be submitted to the Bay of Plenty Regional Council for certification that the requirements of this condition are met. The Operations and Maintenance Plan must be prepared by a stormwater engineer and as a minimum must:

- (a) set out the intervals for inspection of the system;
- (b) programme for scheduled maintenance;
- (c) response times for remedial maintenance in the event of debris build up, blockages and erosion and scour;
- (d) provision for the consent holder to undertake any maintenance work as soon as practically possible or within two working days of a request from the Bay of Plenty Regional Council.

Any updates to the Operations and Maintenance Plan must be submitted to the Bay of Plenty Regional Council for certification in accordance with this condition.

22. The consent holder must adhere to the most recently certified version of the Operations and Maintenance Plan, ~~or an updated Bay of Plenty Regional Council certified version~~ for the duration of the consent.

23. The consent holder must maintain a record, for the duration of this consent, of the dates and details of any inspections and maintenance carried out in accordance with the Operations and Maintenance Plan required by Condition 21.

Review of Consent Conditions

24. The Bay of Plenty Regional Council may, at six-monthly intervals throughout the duration of the consent, serve notice on the consent holder of its intention to review the conditions of this consent. The purpose of such a review is to assess any unforeseen environmental effects arising from the discharge, or the need for further monitoring and treatment of stormwater, and to impose monitoring and discharge control conditions relating to these discharges, if appropriate. The fair and reasonable costs associated with any such review shall be recovered from the consent holder.

Resource Management Charges

25. The consent holder shall pay the Bay of Plenty Regional Council any administrative charges, which are fixed in accordance with section 36 of the Resource Management Act 1991.

Term of Consent

26. This consent shall expire ~~on the anniversary of 25 years from the date that commercial production from the existing asphalt plant authorised by consent XXXX ceases of~~ commencement.

The Consent

27. This consent is granted under the Resource Management Act 1991 and is not an authority under any other act, regulation or bylaw.

Advice Notes

~~1. All conditions must be fulfilled to the satisfaction of the Bay of Plenty Regional Council.~~

- 2.1. Reporting and notification required by conditions of this consent shall be directed (in writing) to the Regulatory Compliance Manager, Bay of Plenty Regional Council, PO Box 364, Whakatane or email compliance_data@boprc.govt.nz, this notification shall include the consent number RM22-0649.
- 3.2. The consent holder is responsible for ensuring that all contractors carrying out works under this consent are made aware of the relevant consent conditions, plans and associated documents.
- 4.3. The consent holder is advised that non-compliance with consent conditions may result in enforcement action against the consent holder and/or their contractors.

Earthworks and Contaminated soils (2-year construction)

A resource consent:

Under section 15(1)(a) and (b) and 9(2)(a) of the Resource Management Act 1991 and Rule DW R35 of the Bay of Regional Natural Resources Plan to undertake a restricted discretionary activity being the discharge of contaminants to land, or to land in circumstances where they may enter water.

And

Under section 9(24)(a) of the Resource Management Act 1991 and Rule LM 4 of the Regional Natural Resources Plan to undertake a discretionary activity being disturbance of land and soil as a result of earthworks.

subject to the following conditions:

Purpose

1. The purpose of this resource consent is to authorise and set conditions for earthworks and the disturbance of contaminated soils and associated discharge of contaminants to the environment associated with the construction of a new asphalt manufacturing plant.

Location

2. The activity authorised by this resource consent must be located:
 - (a) At 54 Aerodrome Road, Mount Maunganui,
 - (b) As shown on BOPRC Consent Plan RM2~~32~~-0649/01, and-
 - (c) At or about NZTM 1882352, 5826246.

Notification of Works

3. No less than five working days prior to the overall start of earthworks under this consent the consent holder must request (in writing) a site meeting with a representative of the Bay of Plenty Regional Council. This request must include details of who is to be responsible for site management and compliance with consent conditions.
4. No less than five working days prior to the completion of earthworks under this consent, the consent holder must notify and request (in writing) a site meeting with a representative of the Bay of Plenty Regional Council to confirm that all relevant conditions have been complied with.

Earthworks

5. All earthworks must be carried out generally in accordance with the 'Resource Consent Application for Asphalt Plan - Mount Maunganui' prepared for Allied Asphalt Ltd by Cogito Consulting Ltd and dated 19 December 2022, referenced as BOPRC Consent Appendix RM2~~32~~-0649/03.
6. Earthworks must be limited to site preparation works not exceeding 2000m³ in volume, with the exposed area not exceeding 7,500m².
7. The consent holder must ensure that all earthworks (including stabilisation of earthworks sites to effectively prevent erosion) are completed by 31 March 2026.

Erosion and sediment control

8. At least 10 working days prior to the start of works authorised by this consent, the consent holder must submit a final erosion and sediment control plan (ESCP) to the Bay of Plenty Regional Council for written certification, or re-certification in the event of an update. The purpose of ~~the certification process~~ is to ensure that erosion and sediment controls are designed in accordance with the Bay of Plenty Regional Council 'Erosion and Sediment Control Guidelines for Land Disturbing Activities – Guideline 2010/1'.
9. No works shall commence until the certification of the ESCP from the Bay of Plenty Regional Council has been received in writing. ~~If ten working days have passed and no correspondence has been received about the ESCP from the Bay of Plenty Regional Council, the ESCP shall be deemed certified.~~
10. The consent holder must ensure that all sediment and erosion controls are installed before works start and must adhere to the most recent certified ESCP for the duration of works.
11. The consent holder must divert all uncontaminated catchment runoff away from the area of works.
12. The consent holder must ensure that the erosion and sediment controls and associated erosion protection devices are maintained in an effective capacity and good working order at all times during works and until the site is stabilised.
13. The consent holder must ensure that any necessary maintenance of erosion and sediment controls identified by inspection under conditions of this consent or by Bay of Plenty Regional Council staff is completed within 24 hours or as soon as is safely practicable.
14. The consent holder must ensure that there is no tracking of soil or sediments offsite.
15. The consent holder must ensure that no vegetation, soil, or other debris is left in a position where the material could become mobile by stormwater during heavy rainfall.
16. Stockpiled material that is to be stored for longer than three months must be effectively isolated and stabilised, and located where it cannot become mobile by stormwater during heavy rainfall, to prevent surface erosion and sedimentation.

Disturbance of Contaminated Soils

17. The Contaminated Site Management Plan (CSMP), prepared by Beca and dated 6 April 2023, and referenced as BOPRC Consent Appendix RM2~~23~~-0649/04, or an updated version certified by the Bay of Plenty Regional Council, must be adhered to for the duration of works associated with the construction of the new asphalt manufacturing plant. The purpose of certification of any updated CSMP is to confirm it is in accordance with the Ministry for the Environment's Contaminated Land Management Guideline No. 1 - Reporting on Contaminated Sites in New Zealand, and current best practice for contaminated site management.
18. In the event that previously unidentified contaminated land is discovered, the consent holder must immediately cease works within 5 metres of the discovered contaminant, notify the Bay of Plenty Regional Council and engage a suitably qualified and experienced practitioner (SQEP) in site contamination in accordance with the accidental discovery protocol for contaminated land in section 3.2.1 of the CSMP.
19. Any soil analysis required in regard to this consent must be undertaken by an IANZ accredited laboratory.

20. All contaminated material removed from the site must be disposed of at a facility authorised to accept the relevant type and level of contamination.
21. The consent holder must ensure that any imported material deposited on site is:
- (a) Classified as 'cleanfill' as defined as defined by ~~The~~ WasteMINZ 'Technical Guidelines for Disposal to Land' (2022); and
 - (b) ~~To be s~~ Solid material of an inert nature; and
 - (c) ~~Not contain~~ Free from hazardous substances or contaminants above natural background levels of the receiving site.
22. A Works Completion Report (WCR) must be prepared by a ~~suitably qualified and experienced practitioner~~ SQEP in site contamination and submitted to the Bay of Plenty Regional Council for written certification that the requirements of this condition are met, within two months of the completion of works. The WCR must be prepared by a SQEP in site contamination in accordance with the current edition of the Ministry for the Environment Contaminated Land Management Guidelines No.5 - Site Investigation and Analysis of Soils and No.1 - Reporting on Contaminated Sites in New Zealand. The WCR must address the following:
- (a) A summary of the works undertaken, including a statement confirming whether the works have been completed in accordance with the CSMP;
 - (b) The locations and dimensions of the excavations carried out, including a relevant site plan;
 - (c) Details and results of any additional soil sampling and validation sampling and interpretation of the results (if any was undertaken);
 - (d) Records of any unexpected contamination encountered during the works and response actions, if applicable;
 - (e) Volume of soil removed from the works area and the disposal location(s) and documentation relating to the transportation of soil disposed of off-site;
 - (f) Volume of material imported to the works area, including certification documentation (if required); and
 - (g) Details regarding any complaints and/or breaches of the procedures set out in the CSMP and the relevant conditions of this consent.

Dust

23. The consent holder must comply with the principles of dust management as set out in the Bay of Plenty Regional Council 'Erosion and Sediment Control Guidelines for Land Disturbing Activities – Guideline 2010/01', to prevent an offensive or objectionable discharge of dust from occurring beyond the site boundary.
24. If wind conditions make dust control impracticable, the consent holder must- ensure that any machinery generating airborne dust stops operating until effective dust control is re-established.
25. The consent holder must- ensure that, outside of normal working hours, staff are available on-call to implement dust suppression measures.

Signage

26. Before the start of works under this consent, the consent holder must erect a prominent sign adjacent to the entrance of site works and maintain it throughout the period of the works. The sign must clearly display the following information:
- (a) The consent holder;
 - (b) The main site contractor;
 - (c) A 24-hour contact telephone number for the consent holder or appointed agent;

- (d) A clear explanation that the contact telephone number is for the purpose of receiving complaints and information from the public about dust nuisance resulting from the exercise of this consent.

Resource Management Charges

27. The consent holder must pay the Bay of Plenty Regional Council any administrative charges, which are fixed in accordance with section 36 of the Resource Management Act 1991.

Term of Consent

28. This consent will expire ~~on [2 years sought]~~ 2 years from the date of commencement.

The Consent

29. This consent is granted under the Resource Management Act 1991 and is not an authority under any other act, regulation or bylaw.

Advice Notes

1. *Send reporting, notification and submission of plans required by conditions of this consent (in writing) to the Regulatory Compliance Manager, Bay of Plenty Regional Council, PO Box 364, Whakatāne or email notify@boprc.govt.nz. Please include the consent number ~~RM~~22-0649.*
2. *The consent holder is responsible for ensuring that all contractors carrying out works under this consent are made aware of the relevant consent conditions, plans and associated documents.*
3. *Non-compliance with consent conditions may result in enforcement action against the consent holder and/or their contractors.*

Air Discharge (Existing Asphalt Plant)

A resource consent:

Under section 15(1)(c) and 15(2A)(b) of the Resource Management Act 1991 and Rule AIR-R15 of the Bay of Plenty Regional Natural Resources Plan to undertake a discretionary activity being the discharge contaminants to air

subject to the following conditions:

Purpose

1. The purpose of this resource consent is to authorise the discharge of contaminants to air from an existing asphalt manufacturing plant for a short-term period until a new asphalt manufacturing plant is constructed on the same site.

Location

2. The activity authorised by this resource consent must be located:
 - (a) At 54 Aerodrome Road, Mount Maunganui,
 - (b) As shown on BOPRC Consent Plan RM2~~23~~-0649/01; and-
 - (c) At or about NZTM 1882352, 5826246.

Emission Limits and Controls

3. The consent holder must take all steps in their power to minimise the period of time that the existing asphalt plant continues to operate, and must:
 - (a) Within 20 working days of the ~~consent commencing~~commencement of this consent provide:
 - i. A programme to the Bay of Plenty Regional Council setting out milestones for the construction and commissioning of a new asphalt manufacturing plant (as authorised by consent ~~RM22-0649-DC.03XXX~~) within an 18 month period;
 - ii. An assessment of the events that may cause the commissioning of the new asphalt plant to be more than 18 months from the commencement of this consent ~~being granted~~ and the measures the consent holder will apply-implement to mitigate the risk of those events occurring.
 - (b) Immediately advise the Bay of Plenty Regional Council in the event that the programme required by Condition 3(a)i ~~above~~ is likely to extend beyond 18 months, and the reasons for the programme extension and the anticipated extension period.
4. The consent holder must not discharge contaminants to air under this resource consent at the same time as discharging contaminants to air under resource consent ~~[insert reference to long term consent for new plant]~~ RM22-0649-DC.03.

Note: To avoid doubt, this condition does not restrict the operation of this plant during the testing of systems for commissioning of the new plant that do not use the dryer burner.
5. The plant must not produce more than 70,000 tonnes of asphalt within any calendar year.
6. The consent holder must maintain a record of production volumes at all times and provide a report on annual production volumes to the Bay of Plenty Regional Council by 31 March of each year for the previous ~~12 months~~ calendar year.
7. The discharge of particulate matter from the yard and aggregate stockpiles within the premises, and loading and unloading of aggregates, must be controlled by the consent holder so that a dust nuisance does not occur beyond the boundary of the site.

8. The consent holder must ensure that the asphalt plant stack is at least 18 metres above ground level.
9. The consent holder must ensure that the plant is brought to a stable exhaust temperature of between 100 and 150°C within no more than 5 minutes of plant start up to minimise start up smoke emissions. The consent holder must maintain a record of plant start-up times for the duration of this consent. These records must be kept for the duration of this consent and made available to the Bay of Plenty Regional Council on request.
10. Stack emission testing must be carried out within 6 months of commencement of this Resource Consent by a suitably experienced person and at least once every 12-months thereafter, subject to the following requirements:
 - (a) Testing must be done under normal plant operating conditions and when the plant is operating at greater than 50% of its maximum production capacity.
 - (b) The method of sampling and analysis of particulate matter must be ISO 9096:2003, ASTM D3685-98, USEPA Methods 5 or 17, or equivalent methods, or an equivalent method authorised in writing by the Bay of Plenty Regional Council.
 - (c) Each sampling occasion must comprise a minimum of three tests.
 - (d) The plant operating conditions during the test period, the testing method used and any assumptions made must be recorded and reported.
 - (e) Total particulate sampling results must be reported as a concentration expressed as milligrams per cubic metre adjusted to 0 degrees Celsius, 101.3 kilopascals, and on a dry gas basis, and as a mass emission rate expressed as kilograms per hour.
 - (f) The consent holder must notify the Bay of Plenty Regional Council at least 48 hours prior to the testing taking place and must forward the results of all emissions testing and the information required by Condition ~~6~~10(d) to the Bay of Plenty Regional Council and mandated representatives of Ngāti Kuku hapū no later than one month after receiving the results of the testing.
 - (g) Any test that fails to comply with the above conditions must be repeated as soon as practicable and within 2 months of the previous test.
11. The consent holder must ensure that the total emissions of particulate matter from the asphalt plant stack do not exceed:
 - (a) 175 mg/m³ corrected to 0°C, dry gas basis, and one atmospheric pressure.
 - (b) The mass discharge of particulate matter from the asphalt plant must not exceed 2.9 kg/hr.
12. The consent holder must maintain a sampling port on the stack of the asphalt plant to specifications to be certified in writing by the Bay of Plenty Regional Council. The Council's certification relates to ensuring the specifications are fit for purpose.
- ~~13. There shall be no noxious, dangerous, offensive or objectionable odour at or beyond the boundary of the site.~~
- ~~14.~~13. The only fuels permitted to be used in the asphalt plant are natural gas, automotive diesel oil, biodiesel or used lubricating oil (ULO). When ULO is burnt it must not exceed a fuel burning rate of 1000 kg/hr and it must meet the following specifications:
 - (a) Sulphur content 5,000 ppm w/w (0.5 %) or less;
 - (b) Arsenic 5 ppm w/w or less;
 - (c) Cadmium 2 ppm w/w or less;
 - (d) Copper 100 ppm w/w;
 - (e) Chromium 10 ppm w/w or less; and
 - (f) Lead 100 ppm w/w or less.
- ~~15.~~14. The consent holder must collect a representative sample of each delivery of ULO supplied and after every third delivery, combine the three samples and test the composite

sample to determine compliance with Condition ~~40-13~~ above. Results of the testing must be made available to the Bay of Plenty Regional Council within 48 hours of a request and forwarded to the Bay of Plenty Regional Council by ~~June~~ 31 March each year.

- ~~16-15.~~ 15. The consent holder must maintain a log of the source of ULO and the volume used per annum. This log must be made available to the Bay of Plenty Regional Council within 48 hours of a request and forwarded to the Bay of Plenty Regional Council by 31 March each year.
- ~~17-16.~~ 16. The consent holder must not use either mineral diesel oil nor kerosene as release agents on the trays of any vehicles, including trucks and trailers, receiving hot mix products.
- ~~18-17.~~ 17. The consent holder must ensure the sulphur content of fuel used to heat the asphalt plant does not exceed 0.5% w/w.
- ~~19-18.~~ 18. The consent holder must ensure the scrubber water is maintained at a pH of greater than 7.
- ~~20-19.~~ 19. The consent holder must take all practical measures to prevent bitumen fires from occurring and shall extinguish any bitumen fires as soon as possible.
- ~~21-20.~~ 20. The aggregate stockpiles, yards and associated processes must be managed in such a way as to keep fugitive dust emissions to a practicable minimum. Measures must include at least the following:
- (a) The yard surfaces must be kept clean and free of surface dust as far as practicable;
 - (b) The site must be swept of loose debris as required, and at least once per week.
 - (c) Aggregate stockpiles containing fine material likely to be airborne in dry or windy conditions must be covered and/or sheltered from prevailing winds to the greatest extent practicable, in order to minimise emissions from this source;
 - (d) Sprinkler systems must be fitted and used to control dust;
 - (e) Vehicle speeds must be ~~controlled limited to no more than 10km/hr to minimise dust emissions; and~~
 - (f) High traffic areas of the site must be sealed;
 - (g) Adequate enclosure of dust sources (where practicable) or use of bunds and/or wind breaks;
 - (h) Implement a preventative maintenance programme to minimise equipment failure and unplanned downtime; and
 - (f)(i) Education of staff on resource consent conditions and good dust management for achieving compliance, including good site housekeeping.
- ~~22-21.~~ 21. The consent holder must provide access to Bay of Plenty Regional Council staff to carry out periodic inspections to ascertain compliance with the conditions of this consent.
- ~~22.~~ 22. There shall be no noxious, dangerous, offensive or objectionable odour at or beyond the boundary of the site.
23. There shall be no discharge of noxious, dangerous, objectionable or offensive dust ~~to the extent that it causes an adverse effect~~ at or beyond the boundary of the site.
24. There must be no discharge of other gaseous emissions as a result of the activities authorised by this resource consent to the extent that it causes an adverse effect at or beyond the boundary of the site.
25. The Consent Holder must not use the following in the asphalt manufacturing process:
- (a) Recycled Asphalt Pavement (RAP); and
 - (b) Diesel as a cutback agent.

Maintenance

26. The consent holder must operate and maintain the fuel combustion equipment and the air emission control equipment in a manner that minimises, as far as practicable, the discharge of contaminants into the air from the asphalt plant stack.

Air Quality Management

27. Within three months of the grant commencement of this consent, the consent holder must submit an Air Quality Management Plan (AQMP) prepared by an air quality professional, to the Bay of Plenty Regional Council for certification ~~to ensure that~~ the AQMP meets the requirements of this condition by an air quality professional. As a minimum the AQMP must address the following specific matters:

- (a) A description of the facilities and maintenance procedures;
- (b) Procedures for responding to abnormal operation, in particular equipment fire;
- (c) Procedures to monitor for scrubber failures, including pH checks, and the shutdown of the plant in the event of suspected scrubber failure.:-
- (d) Procedures to minimise discharges of contaminants into air, including details of the inspection, maintenance, monitoring and contingency procedures in place for all emissions control equipment at the site;
- ~~(d)~~(e) Methods for controlling vehicle speeds on site and the sealing of high traffic areas of the site;
- ~~(e)~~(f) Fugitive dust management in the yard and aggregate handling areas;
- ~~(f)~~(g) Operation of asphalt plant to minimise odour;
- ~~(g)~~(h) Operation of ancillary activities (e.g. bitumen storage and transfer) to minimise odour;
- ~~(h)~~(i) Bitumen tank water filter maintenance and servicing;
- ~~(i)~~(j) Complaint response and investigation procedures and contact telephone numbers for parties who are responsible for responding to complaints;
- ~~(j)~~(k) Individual responsibilities for staff of the consent holder, including responsibility for ensuring the effective application of the measures identified above;
- ~~(k)~~(l) Procedures for reporting the required information to mandated representatives of Ngāti Kuku ~~hapū~~hapū; and
- ~~(l)~~(m) Procedures for keeping the AQMP up to date.

~~Except where the Bay of Plenty Regional Council provides notice in writing that it refuses to certify the AQMP (or any proposed changes to it), then should certification not be provided within 20 working days, the consent holder shall regard the AQMP (or any proposed changes to it) as being deemed to have been certified.~~

28. Subject to any other condition of this consent the AQMP must be implemented, and all activities must be undertaken in accordance with the most recent AQMP certified by the Bay of Plenty Regional Council.
29. As part of the preparation of the AQMP, the consent holder must provide Ngāti Kuku with a draft copy of the AQMP for review and comment at least 30 working days prior to submitting it to the Bay of Plenty Regional Council for certification.

Advice Note: Should Ngāti Kuku choose not to accept the offer to provide feedback on the draft AQMP, or do not respond to the offer within the timeframe set out above, that does not constitute a non-compliance with this consent condition.

Odour Response

30. In the event of any odour discharge from the site being assessed by the Bay of Plenty Regional as being noxious, dangerous, offensive or objectionable beyond the boundary of the site, the following actions must be taken by the consent holder immediately:

- a. Determine the cause and/or source of the odour;
- b. Determine whether the cause of the odour can be immediately rectified so that the consent holder is able to demonstrate to the satisfaction of the Bay of Plenty Regional Council that they comply with Condition 13; and
- c. If the cause of the odour is unable to be immediately rectified, cease production immediately until the consent holder is able to demonstrate to the satisfaction of the Bay of Plenty Regional Council that they comply with Condition 13.

Monitoring

31. The consent holder must install and operate a PM₁₀ air quality monitor at or near the site boundary for the purpose of confirming the effectiveness of dust management measures and identifying when additional measures may be required to avoid offensive or objectionable effects of dust, including that:

- (a) The PM₁₀ monitor must be an optical (nephelometer) monitor or reference monitor and certified as appropriate by Bay of Plenty Regional Council for its intended purpose.
- (b) The location of the monitor must take account of prevailing wind directions and the location of dust emission sources and certified as appropriate by Bay of Plenty Regional Council for its intended purpose.

If the PM₁₀ monitoring required by this condition shows an exceedance of any of the trigger levels outlined below, the cause of the exceedance must be investigated by the consent holder. If an investigation indicates that a source or sources within the site have caused the exceedance, all practicable measures must be taken by the consent holder to permanently reduce dust emissions. Investigations and remedial actions undertaken must be recorded and reported in accordance with Condition 35. The trigger levels for investigation are:

- (a) 150 micrograms per cubic metre calculated as a rolling 1-hour average concentration; and
- (b) 65 micrograms per cubic metre calculated as a rolling 12-hour average

Complaints log

30-32. The consent holder must maintain a log of all complaints it receives (including those received via third parties including the Bay of Plenty Regional Council) regarding dust, odour, or other contaminants discharged to air. The consent holder must notify the Bay of Plenty Regional Council of each complaint within 48 hours of receiving the complaint, unless the complaint has been received via the Bay of Plenty Regional Council. The consent holder must record the following details in the complaint log:

- (a) Time and type of complaint, including details of the alleged incident, i.e. duration, location, character, intensity and any effects noted (where known and reported by the complainant);
- (b) Name, address and contact phone number of the complainant (if provided);
- (c) As far as practicable, the weather conditions including wind direction at the time of the alleged incident;
- (d) The likely cause of the alleged incident and the response made by the consent holder to address the issue, including any corrective action undertaken;
- (e) Future actions proposed as a result of the complaint; and
- (f) The response from the consent holder to the complainant.

31-33. The complaint log must be made available to the Bay of Plenty Regional Council at all reasonable times and a copy must be forwarded to the Bay of Plenty Regional Council within 48 hours of a request and annually by 31 March each year.

Reporting

~~32.34.~~ The consent holder must notify the Bay of Plenty Regional Council as soon as practicable, and as a minimum requirement within 24 hours, of the consent holder becoming aware of any accidental discharge, plant breakdown, or other circumstances which are likely to result in the performance standards of this resource consent being exceeded. The consent holder must, within 7 days of the incident occurring, provide a written report to the Bay of Plenty Regional Council, identifying the issue, whether an exceedance occurred, possible causes, steps undertaken to remedy the effects of the incident and measures that will be undertaken to ensure future compliance.

~~33.35.~~ The Consent Holder must submit an Annual Monitoring Report (AMR) to the Bay of Plenty Regional Council, and the Medical Officer of Health by ~~30 September~~31 March each year. The reporting period must be ~~1 July – 30 June~~1 January to 31 December. As a minimum the AMR must include:

- (a) All monitoring data and reports required under the conditions of this resource consent submitted in an electronic extractable database format;
- (b) Assessment of compliance with each condition of this resource consent, including any reasons for non-compliance or difficulties in achieving compliance;
- (c) Assessment of ongoing annual compliance trends and the potential implication for ongoing compliance;
- (d) A summary of all complaints received as required ~~condition~~Condition 25–32 and investigations carried out;
- (e) A summary of any incidents that resulted in non-compliance, or were otherwise of a substantial scale, and the actions taken or planned to avoid re-occurrence; and
- (f) A statement of any additional mitigation measures that have been implemented during the year should be included and the cost of those measures.

Resource Management Charges

~~34.36.~~ The consent holder shall pay the Bay of Plenty Regional Council any administrative charges, which are fixed in accordance with section 36 of the Resource Management Act 1991.

Term of Consent

~~35.37.~~ This consent shall expire ~~on the second anniversary of the date of grant~~2 years from the date of commencement.

The Consent

~~36.38.~~ This consent is granted under the Resource Management Act 1991 and is not an authority under any other act, regulation or bylaw.

Advice Notes

1. *Send reporting, notification and submission of plans required by conditions of this consent (in writing) to the Regulatory Compliance Manager, Bay of Plenty Regional Council, PO Box 364, Whakatāne or email notify@boprc.govt.nz. Please include the consent number ~~RMA~~22-0649.*
2. *The consent holder is responsible for ensuring that all contractors carrying out works under this consent are made aware of the relevant consent conditions, plans and associated documents.*
3. *Non-compliance with consent conditions may result in enforcement action against the consent holder and/or their contractors.*

Air Discharge (New Plant)

A resource consent:

Under section 15(1)(c) and 15(2A)(b) of the Resource Management Act 1991 and Rule AIR-R15 of the Bay of Plenty Regional Natural Resources Plan to undertake a discretionary activity being the discharge contaminants to air.

subject to the following conditions:

Purpose

1. The purpose of this resource consent is to authorise and set conditions for the discharge to air from a new asphalt manufacturing plant.

Location

2. The activity authorised by this resource consent must be located:
 - (a) At 54 Aerodrome Road, Mount Maunganui,
 - (b) As shown on BOPRC Consent Plan RM2~~23~~-0649/01; and
 - (c) At or about NZTM 1882352, 5826246.

General

3. The discharge of contaminants to air under this resource consent must not occur at the same time as discharging contaminants to air under resource consent ~~[insert reference to short term consent for existing plant]~~RM22-0649-DC.02.
Note: To avoid doubt, this condition does not restrict the testing of systems during commissioning of the new asphalt plant that do not use the dryer burner.
4. Except as specifically provided for by other conditions of this consent, all activities to which this consent relates must be undertaken generally in accordance with the information contained in the:
 - (a) Resource Consent Application for Asphalt Plant - Mount Maunganui' prepared for Allied Asphalt Ltd by Cogito Consulting Ltd and dated 19 December 2022, referenced as BOPRC Consent Appendix RM2~~23~~-0649/03;
 - (b) 'Section 92 Further Information Requests and Responses' prepared for Allied Asphalt Ltd by Cogito Consulting Ltd and dated 26 April 2023, referenced as BOPRC Consent Appendix RM2~~23~~-0649/05;
 - ~~(c)~~ Further Information prepared for Allied Asphalt Ltd by Cogito Consulting Ltd and dated 31 January 2024, referenced as BOPRC Consent Appendix RM2~~23~~-0649/06;
 - ~~(d)~~ Updated Air Quality Assessment, prepared for Allied Asphalt Ltd by Tonkin and Taylor Ltd and dated January 2024, referenced as BOPRC Consent Appendix RM22-0649/07;
 - ~~(e)~~ (e) Emissions Reduction Plan titled Allied Asphalt Tauranga Plant ERP and dated 15.01.24, referenced as BOPRC Consent Appendix RM22-0649/08.

Should there be any conflict between these documents and the conditions of this consent, the conditions of the consent shall prevail.

Performance Standards

5. The consent holder must at all times operate, maintain, supervise, monitor, and control all processes on site so that emissions authorised by this consent are maintained at the minimum practicable level.
6. The discharge must not result in noxious, dangerous, offensive or objectionable odour ~~to the extent that it causes an adverse effect~~ beyond the boundary of the site.

7. There must be no noxious, dangerous, objectionable or offensive dust ~~to the extent that it causes an adverse effect~~ beyond the boundary of the site.
8. There must be no discharge of other gaseous emissions as a result of the activities authorised by this resource consent to the extent that it causes an adverse effect beyond the boundary of the site.

Maximum Asphalt Production Limits

9. The asphalt plant must not produce more than:
 - (a) 3,500 tonnes of asphalt within any single day;
 - (b) 200,000 tonnes of asphalt within any calendar year, unless an increase in production is certified by the Bay of Plenty Regional Council via the process detailed in Condition 10 and the information required by Condition 12 is provided to the Bay of Plenty Regional Council;
 - (c) No more than 15% of the annual production volume limit may be transported outside the Bay of Plenty Region.
10. The annual asphalt production volume may be increased to up to 300,000 tonnes in any calendar year where the consent holder provides information to the Bay of Plenty Regional Council demonstrating that an increase in volume is necessary to supply asphalt for the purposes specified in Condition 11 and this increase is certified by the Bay of Plenty Regional Council as being in accordance with the parameters set in Conditions 11(a) and/or (b).
11. Any proposal to increase asphalt production beyond 200,000 tonnes per annum must demonstrate that there is a need to supply the additional volume of asphalt:
 - (a) For a major capital works project in the Bay of Plenty Region that is identified as critical infrastructure in a Future Development Strategy, or equivalent spatial planning document; and / or
 - (b) -To support recovery from a natural disaster.
12. The consent holder must advise the Bay of Plenty Regional Council how much additional production volume is required to support the purpose of the increase identified.
13. The consent holder must maintain a record of daily and annual production volumes and the location of asphalt product end use at all times. Records must be provided to the Bay of Plenty Regional Council within 48 hours of a request and provide records for each calendar year by 31 March each year.

Fuel Sources for Dryer Burner

14. The consent holder must use natural gas as the fuel source for the Dryer Burner, unless:
 - (a) an alternative fuel is to be used with a lower emissions profile than natural gas; or
 - (b) natural gas is unable to be supplied to the site due to a physical restriction or interruption, ~~which is not deliberately caused by the consent holder~~; or
 - (c) the consent holder is unable, despite its best efforts, to secure a contract to supply natural gas at a cost that is financially viable. For the purpose of this consent, natural gas will not be considered "financially viable" if it is more than 150% of the cost of diesel per gigajoule.
15. If Condition 14(a) applies, the consent holder must provide a report on the emissions profile of the alternative fuel prepared by a person suitably qualified and experienced in air quality assessment for certification by the ~~BOPRC~~ Bay of Plenty Regional Council. ~~which must be Certification-certified~~ by the Bay of Plenty Regional Council is to ensure that the emissions profile of the new fuel source is lower than natural gas. The change in fuel source must not occur until certification has been received from the Bay of Plenty Regional Council.

16. If Condition 14(b) applies, the consent holder is permitted to use diesel as an alternative fuel source until such time as the natural gas supply to the site has been restored. Prior to commencing the use of diesel, the consent holder must notify the Bay of Plenty Regional Council and notification must also be given when the supply reverts to natural gas.
17. If natural gas is not “financially viable” as set out in Condition 14-(c):
- (a) the consent holder shall investigate whether any other lower emission fuel sources (being lower than diesel emissions profiles) are financially viable and use this fuel source if it is deemed to be financially viable. If there is no other lower emission fuel source that is financially viable the consent holder is permitted to use diesel as an alternative fuel source until such time as natural gas or another lower emission fuel source can be supplied at a cost that is financially viable; and
 - (b) prior to commencing the use of diesel the consent holder must notify the Bay of Plenty Regional Council with evidence demonstrating natural gas or another lower emission fuel source is not financially viable, and notification must also be given when the supply reverts to natural gas.
18. Prior to commencing the use of diesel under Conditions 14(c) above, the consent holder shall:
- (a) install dryer burner equipment that is designed to ensure the lowest practicable emissions of NO_x; and
 - (b) provide evidence of the installation of the dryer burner equipment required by Condition 18(a) to the Bay of Plenty Regional Council.
19. Where the ~~use of~~ use of diesel under Conditions 14(b) or 14(c) ~~above~~ continues for more than 12 months, the consent holder must within 3 months provide a report to the Bay of Plenty Regional Council, from an appropriately qualified air quality professional, that investigates and evaluates the best practicable option for alternative fuels to minimise discharges of contaminants to air and appropriate timeframes for the plant to transition to use the alternative fuels sources. The timeframe for transition to an alternative lower emission fuel source must be as short as reasonably practicable.
20. Where the evaluation of fuel sources undertaken in accordance with Condition 19 identifies that another fuel source is the best practicable option, the consent holder must transition to this fuel source within the timeframe specified in the evaluation required by Condition 19.

Advice Note: To avoid doubt, any alternative fuel source to natural gas must meet all of the conditions of this consent on a continuing basis.

Contaminant Discharge Controls and Limits

21. Within three months of commissioning the new asphalt manufacturing plant, the consent holder must provide to the Bay of Plenty Regional Council a report from an independent and appropriately qualified air quality professional, which verifies that the design and installation of the plant is in accordance with ~~e~~Conditions ~~18, 19 and 20~~ 22, 23 and 24.
22. Emissions from the asphalt plant must be discharged via a stack that is at least 27.6 metres in height relative to ground level.
23. The consent holder must ensure:
- (a) ~~Air~~ Air from the aggregate drying drum is extracted to a baghouse filtration unit prior to discharge via the asphalt plant stack;
 - (b) Air from the mixer and mixer tower is recirculated to the combustion zone of the dryer drum burner, and
 - (c) ~~Air~~ Air from the hotmix storage bins is extracted to a bluesmoke aerosol filtration system and discharged via the asphalt plant stack.

24. The baghouse filtration unit must be fitted with differential pressure monitoring. Monitoring of the system during operation must establish the appropriate range for the pressure drop, and alarm set points for abnormal operating conditions, and the response to alarms must be included in the ~~air~~ Air quality Quality management Management plan Plan referred to in condition 40.

25. The discharge of PM₁₀ and PM_{2.5} from the asphalt plant stack must not exceed a concentration of 24 mg/m³ and 12 mg/m³ respectively, corrected to zero degrees Celsius and one atmosphere pressure on a dry gas basis.

26. The mass discharge of particulate matter from the asphalt plant shall not exceed 1.0 kg/hr PM₁₀ and 0.5 kg/hr PM_{2.5}.

27. The discharge of oxides of nitrogen (expressed as nitrogen dioxide) from the asphalt plant stack must not exceed a concentration of 100 mg/m³, corrected to zero degrees Celsius and one atmosphere pressure on a dry gas basis.

27-28. The mass discharge of oxides of nitrogen (expressed as nitrogen dioxide) from the asphalt plant must not exceed 3.9 kg/hr.

28-29. The consent holder must operate and maintain the fuel combustion equipment and the air emission control equipment in a manner that minimises, as far as practicable, the discharge of contaminants into the air from the asphalt plant stack.

29-30. The consent holder must ensure that all bitumen storage tanks are not heated above 165C, have failsafe thermostats and are vented through a water filtration system.

30-31. The aggregate stockpiles, yards and associated processes must be managed in such a way as to keep fugitive dust emissions to a practicable minimum. Measures must include at least the following:

- (a) The yard surfaces must be kept clean and free of surface dust as far as practicable;
- (b) The site must be swept of loose debris as required, and at least once per week daily;
- (c) Aggregate stockpiles liable to be dusty if dry must be covered and/or sheltered from prevailing winds, in order to minimise emissions from this source;
- (d) Sprinkler systems must be fitted and used to control dust;
- (e) Vehicle speeds must be limited to no more than 10km/hr;
- (f) High traffic areas of the site must be sealed;
- (g) Adequate enclosure of dust sources (where practicable) or use of bunds and/or wind breaks;
- (h) Implement a preventative maintenance programme to minimise equipment failure and unplanned downtime; and
- (i) Education of staff on resource consent conditions and good dust management for achieving compliance, including good site housekeeping.
- ~~(e) controlled to minimise dust emissions; and~~
- ~~(f) High traffic areas of the site must be sealed.~~

31-32. The aggregate drying drum burner must be serviced at least annually to ensure efficient operation. Servicing must include setting of the air to fuel ratios to minimise the generation of products of incomplete combustion of the fuel. Air emissions control equipment (including the baghouse and bluesmoke aerosol filter) must also be serviced at least annually. Service documentation must be made available to the Bay of Plenty Regional Council on request and included in the Annual Report required by Condition 5449 of this consent at all reasonable times.

33. The Consent Holder must:

- a. ~~Not~~ use Recycled Asphalt Pavement (RAP) at a rate exceeding 30% by weight of the finished product in the asphalt manufacturing process;
- b. Keep records of all asphalt batches that contain RAP and include the % of RAP, by weight of finished product, included within the batch of asphalt; and
- a-c. Provide records of RAP use to the Bay of Plenty Regional Council upon request and by 31 March each year for the previous calendar year.

~~32-34.~~ Hot mix cut-back asphalt must not be manufactured on the site.

Advice note: "Cut-back asphalt" is asphalt manufactured with bitumen that is cut with kerosene or mineral diesel as a hot or high temperature process

~~33-35.~~ Mineral diesel oil nor kerosene must not be used as release agents on the trays of any vehicles, including trucks and trailers, receiving hot mix products.

~~34-36.~~ Within 6 months of the commencement of the asphalt plant operation, the consent holder must ensure field odour surveys are undertaken by an independent and appropriately qualified air quality professional to determine whether there are offensive and objectionable odours at the boundary attributable to the loadout area, under a range of meteorological conditions. If the independent and appropriately qualified air quality professional concludes there are such offensive and objectionable odours attributable to the loadout area, the consent holder must:

- (a) Within 3 months of the surveys, investigate methods to enclose or partially enclose (at least 2 sides) the loadout area to reduce fugitive emissions and provide a report to the Bay of Plenty Regional Council detailing how the loadout area will be enclosed and the timeframes for implementation.
- (b) As soon as practicable, ensure that the loadout area is enclosed in accordance with the report required by Condition ~~365~~(a) and emissions within this area are captured and treated in accordance with the proposed plant design and mitigation as detailed in the report required by Condition 36(a).
- (c) ~~When~~ If partial enclosure is undertaken under Condition ~~3536~~(b) the consent holder must undertake further field odour surveys within 6 months after partial enclosure has been undertaken to determine whether offensive and objectionable odours have been contained. If the results of these field odour surveys indicate that odour from the load-out area continues to be causing offensive or objectionable odour beyond the boundary of the ~~consent holder's~~ site, the load-out area must be fully enclosed within ~~a further~~ 3 months ~~period of completing the field odour surveys.~~

Monitoring

~~35-37.~~ Within 1 month of the completion of commissioning of the asphalt plant, the consent holder must:

- (a) ~~Undertake~~ Undertake stack testing for odour, benzene, ~~NOx, particulate (PM₁₀ and PM_{2.5}), and PAHs~~ to confirm emissions are consistent with those assessed in the Updated Air Quality Assessment, referenced as BOPRC Consent Appendix RM22-0649/07.
- (b) Undertake stack testing for NOx, and particulate (PM₁₀ and PM_{2.5}) to ensure that they are compliant with Conditions 25, 26, 27 and 28.
- ~~(a)~~(c) Undertake stack testing under normal plant operating conditions and when the plant is operating at greater than 50% of its maximum production capacity, as limited by Condition 9.
- ~~(b)~~(d) Report these results to the Bay of Plenty Regional Council within 10 working days of receiving the stack emission testing results.
- ~~(c)~~(e) If the emission rates of any pollutants exceed those assessed in the Updated Air Quality Assessment (referenced as BOPRC Consent Appendix RM22-0649/07), ~~within 1 month of receiving the stack emission testing results,~~ undertake a further round of testing for the relevant pollutant(s) within 1 month of receiving the stack emission testing results.

~~(d)~~(f) If the second round of results also exceed the emissions assessed in the Updated Air Quality Assessment (referenced as BOPRC Consent Appendix RM22-0649/07):

- i. Within 3 months of receiving the second set of stack emission testing results, investigate methods to reduce emissions so that effects are no greater than those assessed in the Updated Air Quality Assessment (referenced as BOPRC Consent Appendix RM2-0649/07) and provide a report, including recommendations, to the Bay of Plenty Regional Council.
- ii. As soon as practicable, ensure that any recommended mitigation occurs in accordance with the report required by Condition 37(f)i.

~~36~~38. Sampling ports must be installed and maintained to enable the testing of emissions from the asphalt plant stack. The sampling port must be an internally threaded British Standard Pipe (BSP), or equivalent, fitting of six inches (or greater) internal diameter (ID). As far as practicable this should be a location at least 7 duct diameters downstream and 2 duct diameters upstream of any bend, obstruction, inlet, fan, or exit. Safe access for sampling must be provided.

~~37~~39. The consent holder must test stack emissions for PM₁₀ and NO_x annually to demonstrate compliance with Conditions 22 and 23-25, 26, 27 and 28 of this consent, and for PM_{2.5} at least once every five years. Testing must be done under normal plant operating conditions using USEPA, ISO or ASTM, or an equivalent method agreed with the Bay of Plenty Regional Council, by persons experienced in the use of such methods. Each sampling occasion must comprise a minimum of three tests. The plant operating conditions during the test period must be recorded and reported. The consent holder must notify the Bay of Plenty Regional Council at least 48 hours prior to the testing taking place and must forward the results of all emissions testing to the Bay of Plenty Regional Council and mandated representatives of Ngāti Kuku ~~hapū~~ hapū no later than one month after receiving the results of the testing. Any test that fails to comply must be repeated as soon as practicable and at least within 2 months of the previous test. The results of any repeat tests must be provided to the Bay of Plenty Regional Council and mandated representatives of Ngāti Kuku hapū within 1 month of the retesting being undertaken.

~~38~~40. The consent holder must install and operate a PM₁₀ air quality monitor at or near the site boundary for the purpose of confirming the effectiveness of dust management measures and identifying when additional measures may be required to avoid offensive or objectionable effects of dust, including that:

- (a) The PM₁₀ monitor must be an optical (nephelometer) monitor or reference monitor and certified as appropriate by Bay of Plenty Regional Council for its intended purpose.
- (b) The location of the monitor must take account of prevailing wind directions and the location of dust emission sources and certified as appropriate by Bay of Plenty Regional Council for its intended purpose.

If the PM₁₀ monitoring required by this condition shows an exceedance of any of the trigger levels outlined below, the cause of the exceedance must be investigated by the consent holder. If an investigation indicates that a source or sources within the site have caused the exceedance, all practicable measures must be taken by the consent holder to permanently reduce dust emissions. Investigations and remedial actions undertaken must be recorded and reported in accordance with Condition 4754. The trigger levels for investigation are:

- (a) 150 micrograms per cubic metre calculated as a rolling 1-hour average concentration; and
- (b) 65 micrograms per cubic metre calculated as a rolling 12-hour average

Monitoring in accordance with this condition may cease after 2-years of operation and monitoring, with the certification of the provided that the Bay of Plenty Regional Council has certified that either ~~that~~ there has been compliance with the trigger levels set out above for

the 2-year period or that the Regional Council is otherwise satisfied ~~with that~~ the measures adopted by the consent holder following investigations into the causes of exceedances of those trigger levels have resolved the exceedances and offensive or objectionable dust effects beyond the boundary of the site are not likely to occur.

Air Quality Management

~~39-41.~~ Prior to any discharge occurring under this consent, the consent holder must submit an Air Quality Management Plan (AQMP) prepared by an air quality professional to the Bay of Plenty Regional Council for certification that the requirements of this condition have been met. As a minimum the AQMP must address the following specific matters:

- (a) A description of the facilities and maintenance procedures;
- (b) Procedures for responding to abnormal operation, in particular equipment fire;
- (c) Procedures to monitor for bag-house failures, in particular the use of differential pressure monitoring, and the shutdown of the plant in the event of suspected filter failure;
- (d) Procedures to minimise discharges of contaminants into air, including details of the inspection, maintenance, monitoring and contingency procedures in place for all emissions control equipment at the site;
- (e) An assessment of any new additives to be included in the asphalt manufacturing process to determine compliance with this consent and details of any mitigation, management, and monitoring procedures required as a result of the assessment.
- (f) Operational and monitoring procedures to comply with condition 40.
- ~~(d)(g)~~ Methods for controlling vehicle speeds on site and the sealing of high traffic areas of the site;
- ~~(e)(h)~~ Fugitive dust management in the yard and aggregate handling areas;
- ~~(f)(i)~~ Operation of asphalt plant to minimise odour;
- ~~(g)(j)~~ Operation of ancillary activities (e.g. bitumen storage and transfer) to minimise odour;
- ~~(h)(k)~~ Bitumen tank water filter maintenance and servicing;
- ~~(i)(l)~~ Complaint response procedures and contact telephone numbers for parties who are responsible for responding to complaints;
- ~~(j)(m)~~ Individual responsibilities for staff of the consent holder, including responsibility for ensuring the effective application of the measures identified above;
- ~~(k)(n)~~ Procedures for reporting the required information to mandated representatives of Ngāti Kuku hapū; and
- ~~(l)(o)~~ Procedures for keeping the AQMP up to date.

~~Except where the Bay of Plenty Regional Council provides notice in writing that it refuses to certify the AQMP (or any proposed changes to it), then should certification not be provided within 20 working days, the consent holder shall regard the AQMP (or any proposed changes to it) as being deemed to have been certified.~~

~~40-42.~~ The AQMP must be maintained and reviewed every two years by a suitably qualified and experienced person(s) to ensure that it documents how compliance will be achieved with the conditions of this consent. The consent holder must provide a copy of any subsequent revisions of or amendments to the AQMP for certification by the Bay of Plenty Regional Council that the changes comply with the conditions of this consent.

~~41-43.~~ Subject to any other condition of this consent the AQMP must be implemented, and all activities must be undertaken in accordance with the latest version of the AQMP certified ~~(or deemed to have been certified)~~ by the Bay of Plenty Regional Council.

~~42-44.~~ As part of the preparation of the AQMP, the consent holder must provide mandated representatives of Ngāti Kuku hapū with a draft copy of the AQMP for review and comment ~~within a specified timeframe which must be~~ at least 30 working days prior to submitting the AQMP to the Bay of Plenty Regional Council for certification.

Advice Note: If –Ngāti Kuku hapū –do not provide feedback on the draft AQMP within the ~~specified timeframe~~, that does not constitute a non-compliance with this consent condition.

Odour Response

45. In the event of any odour discharge from the site being assessed by the Bay of Plenty Regional as being noxious, dangerous, offensive or objectionable beyond the boundary of the site, the following actions must be taken by the consent holder immediately:
- a. Determine the cause and/or source of the odour;
 - b. Determine whether the cause of the odour can be immediately rectified so that the consent holder is able to demonstrate to the satisfaction of the Bay of Plenty Regional Council that they comply with Condition 6; and
 - c. If the cause of the odour is unable to be immediately rectified, cease production immediately until the consent holder is able to demonstrate to the satisfaction of the Bay of Plenty Regional Council that they comply with Condition 6.

Complaints log

43.46. The consent holder must maintain a log of all complaints (including those received via third parties including the Bay of Plenty Regional Council and Tauranga City Council) regarding dust, odour, or other contaminants discharged to air. The consent holder must notify the Bay of Plenty Regional Council of each complaint within 48 hours of receiving the complaint except for complaints received via the Bay of Plenty Regional Council. The consent holder must record the following details in the complaint log:

- (a) Time and type of complaint, including details of the alleged incident, i.e. duration, location, character, intensity and any effects noted (where known and reported by the complainant);
- (b) Name, address and contact phone number of the complainant (if provided);
- (c) As far as practicable, the weather conditions including wind speed and direction at the time of the alleged incident;
- (d) The likely cause of the alleged incident and the response made by the consent holder including any corrective action undertaken;
- (e) Future actions proposed as a result of the complaint; and
- (f) The response from the consent holder to the complainant and any response back from the complainant.

The complaint log must be made available to the Bay of Plenty Regional Council at all reasonable times and submitted by 31 March each year.

Mātauranga Māori Environmental Monitoring Plan

44.47. The consent holder must prepare a Mātauranga Māori Environmental Monitoring Plan (MMEMP) prior to exercising this consent. The purpose of the MMEMP is to establish a methodology to monitor cultural values of the ~~natural~~ environment within and around the Site for the duration of this consent. To achieve this purpose, the MMEMP must include:

- (a) A methodology, established with Ngāti Kuku hapū to monitor the health of the environment; and
- (b) Locations of monitoring points for site discharges.

45.48. The MMEMP required by Condition ~~41-47~~ must be developed with Ngāti Kuku hapū. In this respect, the consent holder must arrange a hui to discuss the contents of the MMEMP prior to its development and must provide Ngāti Kuku hapū with an invitation to attend the hui no less than 30 working days ahead of the hui date. The final MMEMP must be provided to Ngāti Kuku hapū for comment at least 20 working days prior to submitting

the MMEMP to the Bay of Plenty Regional Council ~~for information~~. The MMEMP must be implemented, which must include the following:

- (a) An initial monitoring survey ~~to be in which undertaken by~~ Ngāti Kuku hapū must be invited to undertake prior to works authorised by this consent commencing; and
- (b) Unless otherwise agreed with Ngāti Kuku hapū, ongoing monitoring surveys at least every two years thereafter, in which Ngāti Kuku hapū must be invited to undertake. Any changes proposed to the MMEMP, or its implementation, must be confirmed in writing by the consent holder following consultation with Ngāti Kuku hapū, prior to the implementation of any changes proposed.

~~46.49. Following Within 1 month completion~~ of a monitoring survey under the ~~Mātauranga Māori Environmental Monitoring Plan MMEMP~~, the results must be reported to Ngāti Kuku hapū, along with the results of other monitoring required under the conditions of this consent, and any complaints received and responses to those complaints.

~~47.50.~~ Within 3 months of a monitoring survey under the ~~Mātauranga Māori Environmental Monitoring Plan MMEMP~~ being reported, the consent holder shall arrange a forum with Ngāti Kuku hapū to discuss matters arising from monitoring and reporting. The consent holder must consider and respond to matters that Ngāti Kuku hapū raise in the forum, and report those matters to the Bay of Plenty Regional Council.

~~48.51.~~ The consent holder must reimburse Ngāti Kuku hapū for reasonable costs of time their representatives spend on the preparation of the ~~Mātauranga Māori Environmental Monitoring Plan MMEMP~~, undertaking any monitoring surveys, and for attendance at the forum.

Advice Note 1: Should Ngāti Kuku hapū choose not to take up the offer to ~~consult with the consent holder in respect of~~ participate in the preparing the MMEMP or attend a hui to discuss the preparation of the MMEMP, ~~or choose not to~~, or is for any reason, not able to carry out the cultural monitoring set out in the MMEMP, these circumstances do not constitute non-compliances ~~with these of this~~ consent conditions.

Advice Note 2: Should a broader mātauranga monitoring framework across industry be established with the support and agreement of Ngāti Kuku hapū and the consent holder demonstrates active ~~commitment~~ and on-going commitment to the development and implementation of that framework to the satisfaction of the Bay of Plenty Regional Council, these circumstances will be deemed to be compliance with this consent condition.

Reporting

~~49.52.~~ The consent holder must notify the Bay of Plenty Regional Council at least 24 hours prior to the first exercise of this resource consent.

~~50.53.~~ The consent holder must notify the Bay of Plenty Regional Council as soon as practicable, and as a minimum requirement within 24 hours, of the consent holder becoming aware of any accidental discharge, plant breakdown, or other circumstances which are likely to result in the performance standards of this resource consent being exceeded, and/or conditions of this consent not being complied with. The consent holder must, within 7 days of the incident occurring, provide a written report to the Bay of Plenty Regional Council, identifying the issue, whether there was an exceedance and/or non-compliance, possible causes, steps undertaken to remedy the effects of the incident and measures that will be undertaken to ensure future compliance.

~~54.54.~~ The consent holder must:

- (a) Provide an Annual Monitoring and Compliance Report ~~year~~ to the Bay of Plenty Regional Council, Toi te Ora reporting and Ngati Kuku Hapu by 31 March of each year, summarising:
- i. The volume of asphalt produced each day, and the total for the year;
 - ii. The volume of asphalt sold outside the Bay of Plenty region;
 - iii. The results of the stack testing;
 - iv. The results of any NOx testing;
 - v. Confirmation of the burner servicing;
 - vi. The results of monitoring PM₁₀, and PM_{2.5} when undertaken every five years;
 - vii. A summary of complaints received, including how they were responded to;
 - viii. A summary of the results of Mātauranga Māori monitoring undertaken, and actions taken in response to this.
- (b) Notify the Medical Officer of Health within working 5 days of any abatement or enforcement notice issued.

Greenhouse Gas Emissions Reduction Plan

52.55. The consent holder must implement the independently certified Greenhouse Gas (GHG) Emissions Reduction Plan submitted as part of the additional information dated 31 January 2024 ~~referred to in Condition 4~~ and referenced as BOPRC Consent Appendix RM22-0649/08, or any independently certified amended plan that conforms to the requirements of Regulation 15 of the Resource Management (National Environmental Standards for Greenhouse Gas Emissions from Industrial Process Heat) Regulations 2023.

Review of Best Practicable Option for Minimising Discharges of Contaminants to Air

53.56. Once every 10 years from the commencement of this consent, the consent holder must provide a report to the Bay of Plenty Regional Council, from an appropriately qualified independent professional, that investigates and evaluates alternative technologies to address whether the existing systems still represent the best practicable option (BPO) for minimising discharges of contaminants to air. The report must include, but not be limited to, investigation and evaluation of:

- (a) alternative fuels used in the asphalt plant;
- (b) control techniques and stack emissions testing for NO₂, and the practicality of using these at the asphalt plant;
- (c) compliance with any National Environmental Standard; other Regulations; and relevant Regional Plan, Regional Policy Statement or National Policy Statement promulgated under the Resource Management Act 1991 or replacement legislation;
- (d) at the final review, consideration of plant replacement options and programme for reconsenting.

54.57. The review report must make recommendations on the adoption of BPO to minimise any adverse effects on the environment and the programme for implementation of alternative technologies, and the consent holder must advise the Bay of Plenty Regional Council of its response to the recommendations, and reasons.

~~Advice Note: The report may be independently reviewed and if it is concluded by that review that the best practicable option has been redefined, the Bay of Plenty Council may negotiate with the consent holder an appropriate time period for implementation of measures to adopt the advanced technology.~~

Review of consent conditions

55.58. The Bay of Plenty Regional Council may:

- (a) -within three months of commissioning of the asphalt plant, and every two years thereafter;¹⁷ or
- (b) in the three-month period after the receipt of a report in accordance with Condition 15, ~~4748~~, ~~530~~ or ~~544~~;¹⁷ or
- (c) within 3 months of a report on the outcomes of the monitoring survey under the Mātauranga Māori Environmental Monitoring Plan; or'
- (d) within 12 months following a review or change to the Regional Natural Resources Plan becoming operative that changes the activity status of the activity authorised by the consent to become more restrictive than that which applied at the date of consent being granted; or
- ~~(d)~~(e) On the publication of any statutory policy document in relation to the managed retreat of industrial development and land use in the vicinity of Whareroa Marae and/or any change in statutory policy/direction relating to the zoning of the land the site is on-

serve notice on the consent holder of its intention to review the conditions of this resource consent for the following purposes:

- (a) On the publication of any statutory policy document in relation to the managed retreat of industrial development in the vicinity of the marina or Whareroa Marae Responding to surveys and/or outcomes of the Mātauranga Māori Environmental Monitoring Plan referred to in Condition 47;
- (b) Responding to the direction and outcomes in any statutory policy document in relation to the managed retreat of industrial development and/or land use in the vicinity of the Whareroa Marae;
- ~~(a)~~(c) To review the effectiveness of the conditions of this consent in avoiding or mitigating any adverse effects on the environment, including cumulative effects which may arise from the exercise of the permit, and which it is appropriate to deal with at a later stage, or which become evident after the date of commencement of the permit;
- ~~(b)~~(d) To review the adequacy of and the necessity for monitoring undertaken by the consent holder;
- ~~(c)~~(e) Where results from the stack testing undertaken to comply with Condition 22 show that the limits in Conditions ~~25~~, ~~26~~, ~~27~~ and/or ~~28~~ are being exceeded;
- ~~(d)~~(f) To respond to an analysis of the complaints register where substantiated complaints are occurring more than once per month;
- ~~(e)~~(g) To require the adoption of the best practicable option to remove or reduce any adverse effects on the environment;
- ~~(f)~~(h) Ensuring that the conditions of this consent are effective in avoiding and mitigating adverse effects;
- ~~(g)~~(i) Ensuring that the monitoring and reporting required by this consent are sufficient and necessary, in particular the need for monitoring of particulate matter or odour emissions from the asphalt plant;
- ~~(h)~~(j) If appropriate, adding to, deleting, or amending the conditions, to avoid, remedy or mitigate such effects, or adding to, deleting, or amending the monitoring and reporting conditions, or amending the timing and frequency of subsequent reviews; and
- ~~(i)~~(k) To ensure the conditions of this consent are consistent with any National Environmental Standard; other Regulations; and relevant Regional Plan, Regional Policy Statement or National Policy Statement promulgated under the Resource Management Act 1991 or replacement legislation.

Resource Management Charges

~~56-59.~~ The consent holder must pay the Bay of Plenty Regional Council any administrative charges, which are fixed in accordance with section 36 of the Resource Management Act 1991.

Term of Consent

~~57.60.~~ This consent shall expire ~~on the anniversary of 25 years from the date that commercial production from the existing asphalt plant authorised by consent XXXX ceases.~~ 25 years from the date of commencement.

The Consent

61. This consent is granted under the Resource Management Act 1991 and is not an authority under any other act, regulation or bylaw.

Advice Notes

1. Send reporting, notification and submission of plans required by conditions of this consent (in writing) to the Regulatory Compliance Manager, Bay of Plenty Regional Council, PO Box 364, Whakatāne or email notify@boprc.govt.nz. Please include the consent number RM22-0649.
2. The consent holder is responsible for ensuring that all contractors carrying out works under this consent are made aware of the relevant consent conditions, plans and associated documents.
- 4.3. Non-compliance with consent conditions may result in enforcement action against the consent holder and/or their contractors.

Attachment 2

Informal Workshop Notes

Strategy and Policy Committee Workshop

- Held:** 9.30am, Tuesday 21 May 2024
- Venue** Council Chambers, Regional House, 1 Elizabeth Street, Tauranga, and via Zoom (Audio Visual Meeting)
- Chairperson:** Cr Kat Macmillan – for this Workshop
- Present:** Cr Malcolm Campbell
Cr Stuart Crosby (via Zoom)
Cr Toi Kai Rākau Iti (via Zoom)
Chairman Doug Leeder
Cr Matemoana McDonald (via Zoom)
Cr Jane Nees
Cr Ron Scott
Cr Ken Shirley
Cr Lyall Thurston
Cr Andrew von Dadelszen
Cr Te Taru White (via Zoom)
Cr Kevin Winters (via Zoom)
- In Attendance:** Staff: Fiona McTavish – Chief Executive; Namouta Poutasi – General Manager, Strategy and Science; Chris Ingle – General Manager, Integrated Catchments; Reuben Fraser – General Manager – Regulatory Services; Nic Newman – Climate Change Programme Manager; Ana Serrano – Senior Advisor, Climate Resilience; Antoine Coffin – Manager, Spatial Planning; Bex Houston – Geospatial Analyst; Freya Camburn – Senior Policy Analyst; Elsa Weir – Senior Planner; Karen Parcell – Team Leader Kaiwhakatinana; Mark Hamilton – Senior Policy Analyst; Nassah Rolleston-Steed – Principal Advisor, Policy and Planning; Jenny Teeuwen – Committee Advisor
- Apologies:** Cr Paula Thompson

As Chairperson Cr Paula Thompson was unable to attend the workshop, the Deputy Chairperson Cr Kat Macmillan, **assumed** the Chair.

1. Introduction

Chairperson, Cr Kat Macmillan, welcomed those present and noted that the workshop was open to the public, but would not be livestreamed or recorded.

2. Presentations

2.1 An introduction to Climate Adaptation Planning

Presentation: *An Introduction to Climate Adaptation Planning: Objective ID A4674004* [⇒](#)

Tabled Document: *Tabled Document - Waihi Beach Surf Club Climate Change Brochure: Objective ID A4675339* [⇒](#)

Presented by: Nic Newman - Climate Change Programme Manager
Ana Serrano - Senior Advisor, Climate Resilience

Key Points

- The purpose of the presentation was to bring Councillors up to speed with the relatively new (for New Zealand) Climate Adaptation Planning approach that was commonly used worldwide.
- Introduced DAPP - Dynamic Adaptive Pathways Planning, an innovative approach to planning and decision-making under conditions of deep uncertainty, that explicitly considered decision-making over time responding to how the future unfolded. It was designed to support communities who were ready to start planning for a changing climate. The DAPP cycle was included in the Ministry for the Environment (MfE) Coastal Hazards and Climate Change guidelines.
- Provided an explanation of how DAPP worked and what it looked like.
- Explained the DAPP 10-step process using the local Waihi Beach Lifeguards project as an example.
- The Waihi Beach Lifeguards project had been nominated for a LGFA (New Zealand Local Government Funding Agency) Taituarā Local Government Excellence Award, in the BERL (Business and Economic Research Limited) Award for Excellence in Collaborating for Results category, which recognised projects that demonstrated collaboration with other agencies.

In Response to Questions

- The triggers, signals and thresholds set within the DAPP could indicate when economic investment needed to be applied.
- Using DAPP was a good approach for communities who were facing a lack of uncertainty and resources.
- The Waihi Beach Lifeguards project was focussed on the changing climate rather than extreme events (earthquakes/tsunamis), which fell more under emergency management; however, Civil Defence Emergency Management had been involved in the project.
- The Maketū Climate Adaptation Planning project had evolved differently with the community initially building a foundation plan which showed what the future would look like. The community were now working on more detailed action plans.
- Both the Waihi Beach Lifeguards and Maketū projects had received \$15,000 grants from Bay of Plenty Regional Council's (BOPRC) Community Initiatives Fund (CIF). In addition, the Waihi Beach Lifeguards project included BOPRC staff time of approximately two days a week for five months.
- The DAPP process helped BOPRC to empower communities to be able to continue planning as they wanted to - it was about planning and being proactive, not about reacting.

- MfE were looking at producing practitioner guidelines and NIWA (National Institute of Water and Atmospheric Research) had developed tools to help communities facing issues due to the changing climate. Technical input on the ground was also valuable to help communities understand the hazards and the possible implications of changes that they may face in the future.
- A number of areas of “future work together” had been identified through the Rotorua Development Strategy, and one of these was the concern over Rotorua lake levels.

Key Points - Members

- Suggested that the DAPP process could also be used in the policy planning context.
- Suggested that a simple guide to help communities who start their own adaptation planning could be useful.

2.2 Spatial Planning Case Studies

Presentation: *Spatial Planning Case Studies: Objective ID A4674044* [⇒](#)

Presented by: Antoine Coffin - Manager, Spatial Planning

Key Points - Staff

- BOPRC summer experience student, Simranjot Kaur, had undertaken a comparative analysis of sixteen spatial plans at a national, regional, subregional, locality, and community level.
- This work was used to inform BOPRC’s approach to the regional and sub-regional activities currently being undertaken – SmartGrowth, Eastern Bay Spatial Plan, and Rotorua Future Development Strategy.
- Key learnings included:
 - There was a diversity in approaches within New Zealand (NZ).
 - A clear distinction between the United Kingdom (UK) and NZ systems was the clear and coherent framework in the UK, and the bespoke, disconnected, and diverse approaches in NZ.
 - In the NZ context, the participation of indigenous people at governance, management, and implementation level was unique.
 - There were advantages in having top-down and bottom-up methodologies (having a hybrid approach as one-size did not fit all).
- Outlined some key attributes of the best examples of spatial plans and strategies:
 - Clarity of purpose, scale and what they were addressing.
 - Responsive to the key challenges of the community regardless of mandate.
 - Short-term focus on achievable priorities, in collaboration with partners or local communities.
- Outlined common weaknesses, with a focus on:
 - The theory and methods of spatial plans were generally robust, but the practical implementation of these plans were commonly poor.
 - National interventions, particularly where there was no local buy-in, could be detrimental to the success of a spatial plan or strategy.
- Provided examples of where things had been done well i.e. Rotorua Future Development Strategy and Drumchapel (Scotland).

- Acknowledged Simranjot Kaur, Masters of Urban Planning, University of Auckland, for her work and being part of the Spatial Planning Team for a couple of months.

In Response to Questions

- The SmartGrowth strategy was comprehensive, broad and deep and covered everything that needed to be included. The challenge was pivoting from planning to plan making.
- Post the adoption of the SmartGrowth Strategy, staff had requested a debrief on the strategy process to identify and understand key learnings.
- There was currently no mandate in legislation covering spatial plans; however, the Local Government Act 2002 (LGA) had been the umbrella for many locality/community plans. It was hoped that a coherent planning framework would part of the new system to replace the Resource Management Act to be introduced next year.
- Spatial Plans in the UK (including Scotland) did well in urban environments, mostly due to citizenship and communities being long-standing.

Key Points - Members

- Suggested sharing this work/presentation with SmartGrowth.
- Acknowledged that the disconnect between central and local government made it hard to create an integrated spatial plan, and deliver it on time in a cohesive manner.
- The Rotorua Future Development Strategy was a good example of BOPRC working collaboratively with Territorial Authorities (TAs) - a team effort and a true partnership.
- New Zealand was unique in terms of participation/partnerships with indigenous people and was the envy of many first nations around the world.
- Acknowledged and congratulated Simranjot Kaur for a job well done.

11.00am - the workshop **adjourned**.

11.15am - the workshop **reconvened**.

3. Workshop Papers

3.1 Regional profiles

Presented by: Antoine Coffin - Manager, Spatial Planning
Bex Houston - Geospatial Analyst

Key Points - Staff

- Work was being done to ensure that BOPRC data being used for regional profiles could be relied upon and used, whilst knowing/understanding the associated constraints and limitations.
- Data currently being used included population demographics and predictions, housing affordability and demand, residential consents, and employment by industry.
- Links to examples of what others were doing in this space both within New Zealand and internationally were provided in section 3.2 of the report for this item (pages 8 and 9 of the Agenda).

- Thought had been given as to who could best test how the regional profiles met the needs of specific and broad audiences. Initial testing would be carried out internally i.e. Transport Planning, Policy, and Climate Change programme teams. Future testing would include iwi and hapū of the region, decision makers within local and central government, industry (housing developers, health care and education providers, utilities companies and businesses), and local and prospective residents.
- Demonstrated three off-the-shelf tools for communicating BOPRC's data and information – Power BI, StoryMaps, and Experience Builder. They had been chosen as they could be accessed on a number of devices, could be updated at the touch of a button, and had a diversity of applications. They could work together but could also stand alone.
- Sought feedback from Councillors regarding moving forward with the three communication tools outlined.

In Response to Questions

- BOPRC mostly used open sourced data e.g. from Statistics NZ, Land Information NZ, and Ministry of Education. BOPRC data would also be utilised in the final product.
- Testing would be internal initially and then the testing programme would be extended out to include stakeholders.
- The three off-the-shelf products would be updated regularly. The overall costs would be minimal (tens of dollars for storing the data if using ArcGIS Online as the platform).

Key Points - Members

- Power BI was a useful tool but required the user to have a good understanding of it, to be able to navigate it effectively.

Guidance Provided

- Overall support was expressed for moving forward with the three communication tools outlined.

3.2 PC11 Geothermal Plan Change - structure and policy direction

Presentation: PC11 Geothermal Plan Change - structure and policy direction:
Objective ID A4674344 [↗](#)

Presented by: Freya Camburn – Senior Policy Analyst
Elsa Weir – Senior Planner

Key Points - Staff

- Provided a recap of what had happened to date and where things were at currently.
- The policy framework was already established in both the Regional Natural Resources Plan (RNRP) and the Regional Policy Statement (RPS) and provided the building blocks for the geothermal plan change, in particular, the system classification approach.
- Outlined the drivers of policy direction and the proposed chapter structure.

- Engagement with tangata whenua was underway but uptake had been slow. A greater level of interest was expected as the plan change progressed.
- Policy drafting was ongoing and internal stakeholder reviews were being arranged e.g. consents, compliance.
- Provided an overview of proposed changes (existing policy, amended policy, and new policy), and provided examples.
- Outlined the updated timeline – proposed plan change now to be notified in May 2025, not March 2025.
- Sought support in principle from Councillors for the National Planning Standards (NPS) compliant chapter structure, and input on the high-level policy direction presented.

In Response to Questions

- Tangata whenua aspirations for geothermal management included, but was not limited to, ownership of the resource, the right to develop the geothermal resource for power generation, and being at the decision making table.
- The Tauranga System Management Plan (SMP) process was already underway. There were few rules in the geothermal chapter so inconsistencies with the Tauranga SMP were not anticipated. Tauranga SMP discussions would need to integrate with the freshwater plan change programme, noting that the freshwater plan change process was scheduled to follow slightly after the geothermal plan change.
- Some minor consequential amendments may be required to the RPS as a result of the overall geothermal plan change process, but changes were not anticipated as a result of the Rotorua and Tauranga SMPs.
- BOPRC was working closely with Waikato Regional Council (WRC), meeting bi-monthly. BOPRC and WRC had a shared approach to system classification, and systems on both sides of the boundary between the regions were protected.
- Had already reached out to iwi to gauge how they would like to engage and participate in the process.

Guidance Provided

- Overall support in principle was expressed for continuing with the process as outlined in this workshop.

3.3 Rotorua Airshed Update and Policy Direction

Presentation: *Rotorua Airshed Update and Policy Direction: Objective ID A4674352* [↗](#)

Presented by: Elsa Weir – Senior Planner
Karen Parcell - Team Leader Kaiwhakatinana

Key Points – Staff

- Air quality in the Rotorua Airshed had improved and was on track to lose its “polluted” status under the National Environmental Standards for Air Quality (NESAQ) for PM₁₀ in July 2024; however, the move to a PM_{2.5} standard was considered inevitable and the Rotorua Airshed would not meet that as it currently stood.

- There was currently no indication or certainty from central government about when it would progress the proposed amendments to the NESAQ, and lacking that direction the challenge was what could be done to keep the momentum going without over-reaching.
- Provided an explanation for what the PM_{2.5} standard could be. It was anticipated that the most likely scenario would be a PM_{2.5} standard of 25 micrograms per cubic metre (25µg/m³) for the 24-hour average.
- Outlined three options for policy direction:
 - Option One: status quo/do nothing;
 - Option Two: adopt PM_{2.5} standard in principle, and undertake associated actions (early Bylaw review, Airshed Management Plan etc);
 - Option Three: adopt PM_{2.5} standard into the RNRP and undertaken associated actions (as above plus plan change and new rules in Air Chapter of the RNRP).
- Staff recommended Option Two.

In Response to Questions

- Option Two was not looking at a plan change, but an early review of the bylaw (2024/25 instead of 2026/27) to tidy up known problems within the bylaw, and to start to investigate a pathway for PM_{2.5} which was anticipated to be included in national direction when it eventuated. Cost for options One and Two had already been built into baseline budgets and included staff time.
- PM_{2.5} was not an issue in the Mount Maunganui Airshed (MMA) and staff were not looking for standards to be introduced for this.

Key Points - Members

- Needed to be cautious about progressing without central government direction.
- Would prefer a more evidence based rationale for progressing. Needed a very clear understanding of the benefits to the community - what it would look like on the ground for people in the area.
- It was about baby steps - front-foot this and make sure BOPRC was prepared for the inevitable PM_{2.5} standard.

Guidance Provided

- Support was expressed for Option Two - adopt PM_{2.5} standard in principle, and undertake associated actions (early Bylaw review, Airshed Management Plan etc).

3.4 Mount Maunganui Airshed: Management Plan - scope and process; PC13 (Air Quality) - Unsealed Yards update.

*Presentation: Mount Maunganui Airshed Management Plan - scope and process;
PC13 (Air Quality) - Unsealed Yards update: Objective ID A4674347*
[⇒](#)

Presented by: Mark Hamilton – Senior Policy Analyst
Karen Parcell - Team Leader Kaiwhakatinana

Key Points - Staff

- Staff were seeking input/feedback on the scope, process and timeframes for the proposed Mount Maunganui Airshed Management Plan (AMP).
- Reminded Councillors that the Environment Court's first interim decision for PC13 (Air Quality) did not contain a directive, but a strong recommendation for an AMP.
- Outlined the PC13 objectives - AIR-01 Protect air from adverse effects, AIR-02 Ambient air quality, and AIR-03 Local air quality.
- Outlined the pros and cons for the three options outlined in the report:
Option One: PM₁₀ only (one to two years)
Option Two: PM₁₀ and odour only (two to three years)
Option Three: PM₁₀, odour and other contaminants (three to five years).

In Response to Questions

- Other contaminants included nitrogen oxides (NO_x), sulphur dioxide (SO₂), methyl bromide, and benzene.

Key Points - Members

- This was a complex airshed and caution was needed. BOPRC had to ensure that the community was taken along with us.
- There was a high level of community expectation around BOPRC being involved and it was important to be seen to be doing work in this area. Suggested dealing with the major issues first - PM₁₀ and odour, and then consider the other options if/when necessary.
- Important to work closely with the other groups/parties working in this space, in particular, the Mount Maunganui Air Quality Working Party (MMAQWP), and Ngāti Kuku as the hapū involved.

Guidance Provided

- Support was expressed for Option Two - PM₁₀ and odour only, and associated process and timeframes.

3.5 Update on Proposed Change 8 (NPS-HPL)

Presentation: [Update on Proposed Plan Change 8 \(NPS-HPL\): Objective ID A4674050](#) ➔

Presented by: Nassah Rolleston-Steed - Principal Advisor, Policy and Planning

Key Points - Staff

- The objective of the National Policy Statement for Highly Productive Land (NPS-HPL) was to protect highly productive land (HPL) for use in land based primary production - agriculture, pastoral, horticulture, and forestry.
- HPL was around 15% of New Zealand's land area and was a finite resource.
- BOPRC was required to map all HPL within the region by 17 October 2025, in consultation with tangata whenua and Territorial Authorities (TAs).
- Preliminary consultation with the region's TAs, key rural industry representative groups (i.e. Horticulture NZ, Federated Farmers, Zespri), iwi, hapū and Māori landowners commenced in August 2023.

- At its meeting on 10 October 2023, Komiti Māori considered feedback received from Māori landowners concerning potential restrictions to providing housing for whānau, including future generations, on general title land that was classified as HPL in rural zoned areas. While the NPS-HPL changes being considered by central government did not address issues raised by Māori landowners, MfE officials invited submissions on the matters raised and Komiti Māori lodged a submission specifically in relation to this issue (Attachment 2 of the report for this item – pages 38 and 39 of the agenda).
- A response from MfE was received in March 2024 advising that central government was working through comments received, and that it was committed to reducing barriers for infrastructure, housing and normal rural activities, and trying to find a balance in the current constructive NPS.
- Changes to the NPS-HPL remained uncertain; however, staff understood the HPL definition may be amended to exclude Land Use Capability (LUC) class three land (LUC 3). LUC 3 land made up 56% of the current highly productive land across the region. This change would require HPL within the region to be re-mapped; therefore staff were considering pausing the mapping project in the interim, until there was certainty around any changes to the NPS-HPL.

In Response to Questions

- Pausing the project should have no impacts/implications for Māori land development.
- Māori owned land around the Rangitāiki plains was mostly classed LUC 2.

Guidance Provided

- Expressed support for pausing work until there was more certainty around any changes to the NPS-HPL. Noting staff would continue to meet with people interested and continue to support the Regional Sector.

1.05pm - the workshop closed.