



13 May 2005

File No: 4650/177.00

RC: 4512

TO THE CHAIRPERSON AND MEMBERS OF THE REGULATORY COMMITTEE

LIMITED NOTIFIED LAND USE CONSENT APPLICATION FOR MIKE VERITY TO ERECT TWO NEW DUCK SHEDS AND AN IMPLEMENT SHED AS EXTENSIONS TO AN EXISTING FACTORY FARMING OPERATION

APPLICANT:	Mike Verity
PROPERTY ADDRESS:	346 Oreipunga Road, Cambridge
LEGAL DESCRIPTION:	Lot 2 DPS 53385 (CT45C/726)
SITE AREA:	7.9900ha
ZONING – DISTRICT PLAN:	Rural (Planning Map 12)
PROPOSAL:	Land use consent to: <ul style="list-style-type: none">- construct a new duck rearing shed with a 1,000 bird capacity;- demolish an existing piggery building, and construct a new duck rearing shed with a 200 bird capacity in its place; and- construct a new implement shed as an extension to the existing duck hatching operation already established on the site.
CONSULTANT:	Roger Clark

1 PURPOSES OF REPORT

1.1 The purposes of this report are to assist the Hearings Committee in coming to a decision on the application by:

- Outlining any further information that has been obtained for clarification purposes so that all parties have a clear understanding of the proposal;

- Outlining the statutory framework of the Resource Management Act and the policy framework of the District Plan and any regional planning documents under which a decision is to be made;
- Independently “auditing” the reports submitted by the applicant in support of the application to identify any deficiencies or areas where different interpretations should be applied’ Identifying key issues that need to be considered by the Committee;
- Commenting on points raised in submissions; and
- Making a recommendation to the Committee members for their guidance.

2 THE SITE

2.1 The subject site is located on the western side of Oreipunga Road, approximately 1200 metres south of the Oreipunga Road – Finlay Road intersection, and 800 metres west of Lake Karapiro. The 7.9ha site is held in a single certificate of title and is legally described as Lot 2 DPS 53385 (CT45C/726). A locality plan is attached as Appendix 1.

2.2 The site has frontage to Oreipunga Road, and is accessed via an existing vehicle entrance that serves an existing dwelling located near the front of the property, and the ‘Quack A Duck’ commercial duck hatchery operation that is also established on the property.

2.3 Existing site development is comprised of an existing dwelling and detached garage (occupied by Mike Verity, the site Manager), and the various factory farming buildings.

They include:

- 4 duck rearing sheds,
- a disused shed (previously used as a piggery shed)
- a quarantine and hatching facility
- feed silos, and
- 2 existing barns.

2.4 The site is predominantly developed as a commercial duck rearing operation, with some limited pastoral grazing also being carried out around the periphery of the factory farming activities. The site contains extensive planting (predominantly pines) that assists in screening the commercial factory farming activity from the adjoining properties and public road. An unnamed stream traverses the south-eastern corner of the property, well clear of the factory farming activities.

2.5 The topography of the subject site is comprised of a mix of flat and gully areas, with existing development confined to the flat areas on the top plateau. The property slopes upwards away from the road. The dwelling and factory farming buildings are all located several metres above the road.

2.6 Land uses within the vicinity of the subject site are predominantly rural activities.

3 BACKGROUND

3.1 The commercial duck hatchery (factory farming activity) was legally established on the subject site through a discretionary activity land use consent granted in 1994 (RC 1412). Consent was granted to W O’Donnell “*to establish and operate a duck rearing operation for up to 100,000 ducks per annum*”.

3.2 The consent included provision for six duck rearing sheds to be erected on the property, and was subject to 19 consent conditions (copy attached as Appendix 2). Only four of these sheds were erected.

4 PROPOSAL

4.1 The proposal is fully outlined in the resource consent application and assessment of environmental effects report and plans submitted in support of the application. Copies of all the application documents are attached as Appendix 3.

4.2 In general terms the proposal is to:

- (a) Construct a 750m² duck rearing shed (50m x 15m) located approximately 82.5 metres from the nearest site boundary. This shed will have a 1,000 bird capacity.
- (b) Demolish an existing building (formerly a piggery shed), and construct a new 375m² duck rearing shed (25m x 15m) in its place. The building is located approximately 19.4 metres from the nearest boundary and will have a 200 bird capacity. The shed will utilise the existing concrete pad of the demolished building where practicable.
- (c) Construct a 375m² implement shed (25m x 15m) for the storage of a tractor, equipment and tools. This shed will be located approximately 137 metres from the nearest site boundary.

4.3 All three buildings will have a concrete pad base and a maximum height of 3.6 metres. The duck rearing sheds will be constructed with 1.0 metre high concrete nib walls, bird mesh sides and a colour steel roof painted dark green. The buildings will be similar in appearance to the existing duck rearing sheds. The implement shed will be clad and roofed with dark green colour steel.

4.4 There are presently 4 people employed at the site. They are comprised of 2 full time employees, 1 part time employee and a Manager who lives on site. The Site Manager has confirmed that the proposed expansion will not result in any additional staff.

4.5 The proposal will enable the existing factory farming business to accommodate an additional 1,200 mature breeding birds, but will have little impact on the overall operation of egg harvesting. The existing hatching / incubator facility is able to accommodate the proposed increase in egg numbers, and traffic movements will generally remain unchanged.

4.6 No processing activities are undertaken on the site. A small truck (with a capacity of 9,000 birds) transports the day old ducklings off site on the day that they hatch.

4.7 A feed truck presently visits the site every two weeks and loads grain into silos. Wood shavings are delivered to the site every two weeks, and the used shavings are transported off site every 8 weeks. The applicants agent estimates on page 2 of the application that the total vehicle movements over an 8 week cycle would comprise of a maximum of 11 trucks plus staff vehicles. All vehicle movements would be within the hours of 6am – 8pm in accordance with the original resource consent conditions.

4.8 The site plan identifies a metalled carparking area in front of the hatchery building. This area is presently used for staff carparking. Additional carparking is available on the metalled areas around the duck shed buildings.

5 PUBLIC NOTICE AND SUBMISSIONS

5.1 Pursuant to Section 94(1) of the Resource Management Act 1991 (RMA), the Application was served on all persons who, in the opinion of Council, may be affected by the proposal. The notice was served on 11 March 2005 and submissions closed on 12 April 2005. Submissions were received from one party within this time period. The nature and reasons for the submission are set out in Table 1 following. A copy of the submission, and a map showing the location of the submitter and those who provided written approval is attached as Appendix 4.

Table 1: Summary of Submissions

SUBMITTER	ADDRESS	STANCE		REQUEST TO BE HEARD		SUMMARY OF ISSUES RAISED IN THE SUBMISSION	
		OPPOSE	SUPPORT	YES	NO	ISSUES RAISED	REQUESTS IF NOT DECLINED
G & J Stacey	384 Oreipunga Road	✓		✓		<ul style="list-style-type: none"> ♦ The applicants continuous failure to comply with the existing resource consent 	<ul style="list-style-type: none"> ♦ Complete noise monitoring undertaken by independent assessor ♦ A probationary period of 3 years with consents monitored for compliance before any new buildings erected ♦ Water monitoring of adjacent stream for contamination ♦ Shutters on sheds closed at night to mitigate light and noise effects.

5.2 The parties from whom the applicant obtained written approvals are detailed in Table 2 below:

Table 2: Written Approvals

Name	Property Details
J & J Moreland & R Bonenkamp Riverdale Farm Limited	367 Oreipunga Road RD2 Cambridge
D & J Renner	180 Oreipunga Road RD2 Cambridge

6 IWI CONSULTATION

6.1 A copy of the application was forwarded to Ngaa Iwi Toopu O Waipa (NITOW) in accordance with Council's agreed notification procedure. NITOW responded that they have no concerns about the application.

7 OFFICER COMMENTS

Environmental Health Officer

Council's Environmental Health Officer has visited the site, reviewed the application and recommended a number of conditions of consent. A copy of his Memo is attached as Appendix 5.

8 WAIPA DISTRICT PLAN - ACTIVITY CLASSIFICATION

8.1 The subject site is zoned Rural in the Waipa District Plan. Any activity which complies with all the conditions specified in Rule 2.4 shall be a permitted activity under Rule 2.3.1.1. Under Rule 2.3.1.3 any activity which does not comply with any one or more of the conditions for permitted activities shall be discretionary activity or a non-complying activity as is specified. An assessment of the conditions of Rule 2.4 follows in Table 3.

Table 3: Assessment of Rural Zone Conditions for Permitted Activities

RULE	PROVISION	x / ✓	COMMENTS
2.4.1	Protection of indigenous trees and vegetation and habitat of indigenous fauna	✓	<p>The proposal will result in the clearance of approximately 8 pine trees, to allow for the creation of a metalled driveway to one of the proposed duck sheds.</p> <p>Some minor recontouring, or excavation works may be required to form suitable building platforms for the proposed buildings.</p> <p>The proposal will not cause any stream to be diverted or modified.</p>
2.4.2	Protection of prime agricultural land	✓	<p>The proposal is to establish three new buildings and an associated metalled driveway as an expansion of the existing duck hatchery activities that were lawfully established on the site. While the proposed buildings will prevent the future use of the site for the production of vegetation, they are considered ancillary to the existing lawfully established activity.</p> <p>A search of the LUC maps for the site has confirmed that the site is predominantly comprised of land that is not deemed prime agricultural land (Class VIe1)</p>
2.4.3	Protection of peat lakes and their margins	✓	There are no peat lakes affected by the proposal.
2.4.4	Tree planting, management and harvesting	✓	No tree or plantation of trees are proposed to be planted below overhead powerlines or closer than 30m to any residential building.
2.4.5	Tree planting and vegetation in relation to roads	✓	No trees or plantation of trees are proposed to be planted so that sight distances for vehicles will be obstructed.

2.4.6	Number of dwellings on site	✓	The proposal is for two additional duck rearing sheds and a new implement shed. No further dwellings are thus proposed.
2.4.7	Multiple units on a site	N/A	The proposed buildings will form part of the existing operation, and will utilise the existing utility services (water supply) that service the other on site buildings and activities.
2.4.8	Minimum site area and minimum site frontage for any activity	✓	Oreipunga Road is not a primary road. The site has an area in excess of the Waikato Regional Council minimum land area requirements for the satisfactory disposal of sewage and waste water.
2.4.9	Size of activities Activities shall not exceed: a) aggregate floor area of 100m ² b) No. of persons at any one time shall not exceed 5 Activities that do not comply shall be discretionary in accord with Rule 2.7.10	✗	a) The duck hatchery buildings have a floor area exceeding 100m ² . b) A maximum of four staff members (3 full time and 1 part time) are employed. The proposal therefore does not comply with item a), and the activity is discretionary.
2.4.10	Access to sites	✓	The proposed extensions to the existing operation will utilise the existing site access onto Oreipunga Road. The existing site access is unaffected by the proposal to erect three new buildings on the property.
2.4.11	Loading requirements in Rural Zones	✓	All loading and unloading of vehicles can be undertaken on the site, well clear of the legal road reserve.
2.4.12	Manoeuvring space	✓	The site plan illustrates that there is sufficient vehicle manoeuvring space on the site so that vehicles do not need to reverse on to or off the road.
2.4.13	Building set-back from road boundaries	✓	The proposed buildings are located towards the rear of the site, well back from the Oreipunga Road boundary.
2.4.14	Building set-back from internal site boundaries: 15m.	✓	The site plan submitted with the application shows the location of the proposed buildings in relation to the external property

			boundaries. All three buildings are at least 19m from the nearest external boundary.
2.4.15	Buildings in relation to lakes and rivers: 23m	✓	The stream that traverses through the south-eastern corner of the site is well clear of the factory farming activities.
2.4.16	Protection of public drains	✓	There are no public drains affected by the proposal.
2.4.17	<p>The housing and keeping of animals</p> <p>Any yard, pen, feed lot, feed pad, loafing barn or similar enclosure or building for the confinement of birds ... for periods in excess of 48 hours in which they are sustained on supplementary feed while so confined shall be located at least:</p> <p>a) 30m from any site boundary</p> <p>b) 100m from Residential zone</p> <p>c) 50m from dwelling on an adjoining site</p> <p>d) 25m from dwelling on the same site</p>	✗	<p>The northern most building (formerly a piggery shed) is located approximately 19.7m from the nearest boundary, and therefore does not comply with the requirement for a 30m minimum setback.</p> <p>The buildings comply in relation to all other boundaries.</p> <p>There are no residential zoned properties nearby, and the cottage on the adjoining property to the north is located further than 50m from the existing shed – with extensive planting and a gully area in the area between.</p> <p>The failure to comply with the 30m side yard requirement is deemed a discretionary activity</p>
2.4.18(1)	Height of structures: 12m	✓	The proposed buildings have a maximum height of 3.6m and do not penetrate the building recession plane.
2.4.19	Temporary buildings	✓	The proposal does not include any temporary buildings.
2.4.20	Sale of goods	✓	No goods will be displayed for sale from the proposed buildings.
2.4.21	<p>Vehicle parking:</p> <p>Storage Facility – 1 per 140m² gross floor area (gfa) or every 2 principals and employees, whichever is the greater</p>	✗	<p>The proposed implement shed has an area of 375m², and the southern most duck shed has an area of 750m². The duck shed that is replacing the existing piggery building has an area of 375m². This equates to a total of 1500m² (1125m² of which are additional).</p> <p>Appendix 6 does not include any carparking requirements that specifically relate to a factory farming activity. The nearest ‘best</p>

			<p>fit' is that for a 'storage facility', whereby 1 vehicle parking space per 140m² gfa the activity is required. This equates to 11 vehicle parking spaces.</p> <p>The site does not contain a formed carparking area capable of accommodating the required 11 vehicle spaces.</p> <p>The site plan identifies an existing metalled carparking area adjacent to the hatchery building. The existing carparking area is sufficient for the staffing levels, and for the level of traffic that is generated by the site activities.</p> <p>A condition regarding the design and formation of the staff carparking area for the factory farming activities is recommended to ensure that a suitable on-site carparking area is provided for five vehicles.</p>
2.4.22	Signs	✓	No signage is proposed.
2.4.23	Noise	✓	<p>The factory farming activities will be carried out within the confines of the buildings.</p> <p>Councils Environmental Health Officer has visited the site and is satisfied that the site activities do not generate excessive noise. The noise limits which are set at the notional boundary of rural dwellings can be complied with. Conditions of consent are recommended to ensure compliance.</p>
2.4.25	Smoke, fumes, dust and odour	✓	Councils Environmental Health Officer has visited the site, and has reviewed the application. He is satisfied that the factory farming activities will not create an odour or dust nuisance that is discernible beyond the boundary of the site.
2.4.26	Electrical interference	✓	The proposed activities will not unduly interfere with the satisfactory supply of electricity to other persons.
2.4.27	Glare	✓	The proposed activities will not result in the spillage of light onto adjoining properties beyond the prescribed limits. The only exterior lighting is a security light affixed to

			<p>one of the existing sheds.</p> <p>The lighting within the duck sheds is automated to create an artificial spring environment, and turns off at 9pm each evening.</p> <p>The exterior cladding of the buildings will be similar to the existing sheds.</p>
2.4.28	Reserve contribution	N/A	
2.4.29	Potentially hazardous substances	✓	The proposed activities do not involve the storage or use of hazardous substances.
2.4.30	Solid and liquid waste disposal	✓	All waste from the site will continue to be collected and disposed of to an approved landfill site or refuse transfer station. The dead chickens and egg shells are disposed of by Wallace Corporation.
2.4.31	Railways and land designated for railway purposes	N/A	
2.4.32	Resiting and use of existing buildings	N/A	
2.4.33	Buildings associated with bee keeping	N/A	

8.2 From Table 3 above, the proposal cannot comply with the conditions of Rules 2.4.9 (size of activities), 2.4.17 (housing and keeping of animals) and 2.4.21 (vehicle parking). Non-compliance with Rules 2.4.9, 2.4.17 and 2.4.21 require the application to be assessed as a **discretionary activity**.

Assessment Criteria for Discretionary Activities

8.3 In determining whether to grant consent for an activity which does not comply with Rules 2.4.9, 2.4.17 and 2.4.21 and what conditions, if any, to impose Council shall have regard to the following matters under Rules 2.7.5 and 2.7.11:

“Rule 2.7.5 - The Housing and Keeping of Animals

In determining whether to grant consent and what conditions, if any, to impose the Council shall have regard to Section 104 of the Act and to the following matters:

- a) The likely adverse effects on the occupants of nearby dwellinghouses and residential areas;*
- b) The possible nuisance that may be created because of noise, smell, vermin, flies and other objectionable characteristics of the activity;*
- c) Any possible ways and means of avoiding or mitigating the likely nuisance”.*

Comments

a) *The likely adverse effects on the occupants of nearby dwellinghouses and residential areas;*

The two buildings proposed on the southern side of the property (the proposed implement shed and the 1,000 capacity duck shed) shall be setback at least 82 metres from the nearest boundary, and will be screened from the abutting properties by the existing screen planting (pine trees). Both buildings comply with the 30m minimum setback requirement for factory farming and the 50m setback required from dwellings. A suitable buffer area is therefore provided between the buildings, and the dwelling on the abutting property (384 Orepunga Road, G & J Stacey).

The proposal to demolish the existing piggery buildings on the northern side of the property, and erect a new duck shed in its place, does not comply with the 30m minimum setback requirement. The applicants propose to erect the new building 19.7m (20m) from the northern boundary. There is an existing farm cottage located approximately 37m from this boundary, resulting in a total separation of 56.7m between the two buildings. The adjoining property (338 Oreipunga Road) is owned by S Laxon & R Emery of Victoria, Australia. In accordance with Section 94(1) of the Resource Management Act 1991, Council served notice on the owners and occupiers of the aforementioned property. However, neither party lodged a submission to the proposal.

The land between the proposed duck shed and the adjacent farm cottage is a heavily planted gully area. The topography and planting provide a natural buffer /screening between the two differing landuses. I am satisfied that the proposal to erect a new duck shed 20m from the northern boundary will not adversely effect the occupiers of the adjacent dwelling.

b) *The possible nuisance that may be created because of noise, smell, vermin, flies and other objectionable characteristics of the activity;*

Councils Environmental Health Officer has reviewed the application and is familiar with the site. He has visited the site on more than one occasion, and is satisfied that the proposal will not create any noise, odour or vermin nuisance.

c) *Any possible ways and means of avoiding or mitigating the likely nuisance.*

Odour – the potential for odour nuisance has been mitigated through sound management practice. Shutters on either side of the building are kept partially open to provide a constant air flow through the building. Fresh wood shavings are spread over the floor of the sheds on a regular basis, to absorb any moisture within the sheds. The wood shavings are completely replaced when required, and disposed of off site. Any dead chickens or egg shells are contained in a large bin and disposed of by Wallace Corporation.

Noise – the duck hatchery activities do not result in any objectionable noise levels.

Visual – the duck hatchery activities occur within the buildings. The existing screen planting (pines) and natural topography of the site assist in screening the buildings from the surrounding properties and adjacent public road. The operation of a factory farming activity on a property predominantly comprised of land that is not defined as ‘prime agricultural land’ is considered compatible with the rural zoning of the site and the surrounding environs.

“Rule 2.7.11 – Variation in Parking Requirements

In determining whether to grant consent to reduce the minimum number of off-street parking spaces as required by Rule 2.4.21 and what conditions, if any, to impose the Council shall have regard to Section 104 of the Act and to the following matters:

Where it is shown to the Councils satisfaction that the full parking requirement need not be met because of such factors as:

- a) The small no. of persons likely to be on the site at any time;*
- b) The low volume of service, delivery and visitor traffic likely to be generated by the site;*
- c) Any physical characteristics of the site that may affect its ability to accommodate off street parking; and*
- d) Any other factors considered by Council to be relevant”.*

Comments

- a) The small no. of persons likely to be on the site at any time;*

The applicant has confirmed that the hatchery employs 2 full time and 1 part time staff members; and a Manager who resides at the property. Therefore, a maximum of 4 staff members are likely to be at the site at any one time. Sufficient parking area is available for staff vehicles in front of the hatchery building.

The Managers vehicle is parked at his dwellinghouse (at the front of the site). If consent is granted it is recommended that the staff carparking spaces are formed and delineated to the satisfaction of Council.

There is sufficient area for any additional vehicles to park in the metalled area around the duck shed buildings.

- b) The low volume of service, delivery and visitor traffic likely to be generated by the site;*

Service vehicles are comprised as follows:

- a feed truck that loads grain into silos every two weeks,
- a vehicle that delivers wood shavings to the site every two weeks,
- a vehicle that removes used shavings from the site every 8 weeks; and
- a small truck that transports the day old ducklings from the site.

This equates to a low volume of service vehicles (approximately 10-11 trucks over an 8 week cycle).

- c) Any physical characteristics of the site that may affect its ability to accommodate off street parking; and*

There are no physical characteristics that affect the sites ability to accommodate off street parking.

- d) Any other factors considered by Council to be relevant.*

There are no other factors considered by Council to be relevant.

9 STATUTORY FRAMEWORK – RESOURCE MANAGEMENT ACT 1991

9.1 Introduction – Sections 104 and 104B

9.1.1 As a discretionary activity the land use consent application is to be considered under Sections 104 and 104B of the Resource Management Act 1991 (RMA).

9.1.2 Section 104 sets out those matters that Council must consider when assessing an application for resource consent. The matters that are relevant to the consideration of this application (subject also to Part II, Purpose and Principles) are:

- “a) Any actual and potential effects on the environment of allowing the activity; and...*
- b) Any relevant provisions of - ...*
 - (iv) A plan or proposed plan; and*
- c) Any other matters the consent authority considers relevant and reasonably necessary to determine the application.”*

Each of the relevant matters are considered in the following sections of this report.

9.1.3 Section 104B defines the power of Council to grant a resource consent for a discretionary activity. Section 104B states:

- “104B Determination of applications for discretionary or non-complying activities – After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority –*
- (a) may grant or refuse the application; and*
 - (b) if it grants the application, may impose conditions on the consent under section 108.”*

9.2 Section 104(1)(a) – Any Actual and Potential Effects on the Environment of Allowing the Activity

9.2.1 The effects on the environment relevant to an evaluation of the application have been identified as:

- ◆ Visual Impacts;
- ◆ Odour;
- ◆ Noise;
- ◆ Lighting and Glare.

Visual Impacts

9.2.2 In terms of visual impact, the question to be determined is whether these built elements adversely impact in more than a minor way on the character and values of the surrounding rural environment.

9.2.3 The proposal will introduce three new buildings into an existing factory farming operation. The buildings are similar in design, scale and appearance to the existing factory farming buildings already established on the property, and will be sited to maximise the screening potential of the existing planting and topography.

9.2.4 The applicant proposes the following mitigation measures to minimise the visual impact of the proposed buildings:

- ◆ To colour the exterior of the proposed buildings dark green earth tones to match the existing buildings, and to be sympathetic to the natural rural environment.

- ♦ To retain the existing screen planting (excluding the 8 pine trees that are to be removed in order to allow vehicular access to one of the proposed buildings)
- ♦ Locating all three buildings near the existing site development, at least 65 metres from the boundary with Orepunga Road, and in the general vicinity of the existing factory farming activities.

9.2.5 In my view the above measures will effectively screen and soften the visual effect of the proposed buildings, and will not adversely impact upon the visual amenity values of the surrounding rural environment. The expansion of the existing factory farming activity will not create unreasonable change or detract from the character of the area. Factory farming activities are envisaged in the rural zone – particularly in areas that are not comprised of ‘prime agricultural land’.

Odour

9.2.6 Council staff are satisfied that any odour nuisance effects associated with the proposed expansion of the factory farming activities will be minimal.

9.2.7 The potential for odour nuisance has been mitigated through sound management practises. The moisture levels within the duck sheds are kept to a minimum by applying fresh wood shavings to the shed floors on a regular basis, to absorb any moisture within the sheds; and ensuring that the water feeders are permanently affixed so that they are not toppled over by the mature ducks. The wood shavings within the duck sheds are completely removed and replaced when necessary, and the used wood shavings are disposed of off site. Any dead birds or egg shells are contained in a large bin near the hatchery building, and disposed of by Wallace Corporation. The duck sheds are ventilated by ensuring that the shutters on either side of the buildings are kept partially open to provide a constant air flow through the building.

Noise

9.2.8 The proposal is to establish two new duck sheds and an implement shed as an extension of the existing factory farming activity will not result in a significant increase in existing noise levels. The additional 1200 ducks represents a 21% increase in the total number of mature birds (there are presently 4,000 mature birds, and the two new sheds will result in the potential for an additional 1,200 mature birds).

9.2.9 Councils Environmental Health Officer has visited the site on more than one occasion and is satisfied that the noise levels associated with the factory farming activities are well within the maximum permitted noise levels.

9.2.10 There is the potential for noise to also be generated from vehicles entering and exiting the site, and manoeuvring about the site. However, given the low volume of traffic and the separation distance to the nearest neighbours, it is my assessment that traffic noise will be no more than minor.

9.2.11 Accordingly, for site activities the noise standards of the Rural Zone under rule 2.4.23(1) are recommended.

Lighting and Glare

9.2.12 The proposal will not result in any glare or lighting nuisance. The only artificial lighting that is proposed is inside the proposed duck sheds, and is required to create an artificial ‘Spring’ season (long daylight hours). The internal lighting is automated, and turns off at 9pm each evening.

9.3 Section 104(1)(b) – Any Relevant Objectives, Policies, Rules or Other Provisions of the Plan

Waipa District Plan – Objectives and Policies

9.3.1 The site is located in the Rural Zone within which a range of objectives and policies provide broad overall guidance on resource use in that zone.

9.3.2 Part 1, Section 2 of the Waipa District Plan outlines the rural resource base of the Waipa District and discusses the issues faced in rural areas. It then outlines objectives and policies to address these issues. The major issue for the Waipa District is stated to be:

“...its ability to absorb changes in land use activities without a significant adverse effect on natural and physical resources and the quality of the environment.” (page 1 – 13).

9.3.3 Other relevant issues are summarised as:

“a) the extent of controls required for the environmental protection and conservation of natural features and landscapes;

b) the extent to which good quality soil should be protected for productive uses that are dependant on them for their prosperity; ...

g) the extent to which controls should be imposed on farming and other rural activities in order to avoid or mitigate any adverse effects on the environment” (page 1 – 13).

9.3.4 Part 1, subsections 2.2 and 2.3 of the Waipa District Plan then set out the rural objectives and policies. A number of them are relevant to this application as they set out the Council’s policy framework for rural resource management into which the zoning and other related rules must fit. There are only two overall rural objectives. They are:

“Objective RUI

To manage the rural environment so that changes induced by humankind do not significantly affect the ability of the land and water to sustain the activities of human, animal and plant communities.

Objective RU2

To monitor the effects on the environment of changes in the use of land and water areas.” (page 1 – 13).

- 9.3.5 The Waipa District Plan then lists a large number of policies derived from these objectives. The most relevant to this application are discussed below. The first of these are:

“Policy RU39

To ensure that prime agricultural land remains available for further primary productive use.

Policy RU40

To encourage activities which would compromise the future use and availability of prime agricultural land to locate in alternative rural or urban locations.” (page 1 – 34).

- 9.3.6 The explanation that follows these policies in my opinion clearly establishes the Council’s position that, as a finite resource, “prime agricultural land” should be protected. The Waipa District Plan states:

“The council considers that the land in most parts of the District is so versatile in its ability to accept rapid change in farming types and techniques that it is worthy of protection. The protection required does not need to be so prohibitive that it excludes all non-farming uses and uses which are not concerned with soil quality but it will need to ensure, as far as possible and practicable, that such uses are not able to be located elsewhere in the District before they are permitted to establish on prime agricultural land.” (page 1 – 35)

- 9.3.7 Therefore, in order to be consistent with the above policies the application must be able to demonstrate that either:
- (i) The site is not prime agricultural land;
 - (ii) Prime agricultural land will not be lost or destroyed by the activity; or
 - (iii) That there are no other suitable sites available within the District upon which the activity can establish.

It is my assessment that the application need only satisfy one of the above points to demonstrate that it is consistent with the above policies.

- 9.3.8 “Prime agricultural land” is defined in Part 2, Section 13 of the Waipa District Plan as:

“...land having high actual or potential value for agricultural production. It includes all Class I, II, or III land shown on the New Zealand Land Inventory Resource Worksheets except when detailed investigation demonstrates that the particular site does not qualify as Class I, II or III land or where previous use has rendered the site unsuitable for agricultural use or has otherwise significantly reduced the productive potential of the land.” (page 2 – 162). [emphasis added]

The land is identified as being predominantly Class VIe1 land on the LUC worksheets, and is therefore not considered ‘prime agricultural land’ according to the above definition. Furthermore, the factory farming activities already established on the site have already compromised the potential of the site to utilise the productive potential of the underlying soils. Accordingly, it is my assessment that site is not “prime agricultural land” and that the activity is consistent with Policies RU39 and RU40.

9.3.9 Rural Policy RU63 addresses matters to be considered in relation to activities in the rural area which could have an adverse effect on the environment. Policy RU63 and the explanations relevant to this application are set out below:

“Policy RU47

To avoid farming practices and techniques that would have a significant adverse effect on the environmental qualities of the District or on the efficient and safe operation of any public facility.

Policy RU48

To ensure that intensive farming activities and activities associated with farming do not have any significant adverse effect on residents in the District or adjoining districts.

Explanation

The Plan does not limit the range of farming activities in the District. It discusses some types of farming operations, works and buildings which may have an adverse effect on the environment or the amenity values of the District

Matters to be Considered in relation to rural activities which could have an adverse effect on the environment

“Policy RU63

To ensure for any land use activity in rural areas that adequate consideration is given to matters which could adversely or beneficially affect the environment or the sustainability of natural and physical resources.

2.3.4.1 Bulk and Location of Buildings and Structures

- a) In relation to roads they should be sufficiently set back from the road boundary for privacy, mitigation of traffic noise, safety of residents from passing vehicles, and to encourage vehicles to park off the road. Where these matters can be met by the provision of planting or fences, access drives and parking spaces the set back may be reduced accordingly.*
- b) In relation to site boundaries a separation distance may be required to avoid or reduce adverse effects on users of adjoining land and particularly dwellings, including loss of privacy, undue noise, excessive illumination, reduction of daylight into dwellings, and movement of vehicles. This will*

particularly apply to farm buildings such as milking sheds, silos, animal pens and implement sheds. Separation distances may be reduced with agreement of persons likely to be affected where these adverse effects can be avoided or mitigated.

- c) ...
- d) *Buildings will need to be located so as to avoid any significant adverse effect on amenity values. Large buildings should be avoided in sensitive landscape areas. Adverse effects may also be avoided by altering the design and appearance of buildings, relocation of access, tree planting and avoiding alteration to landform.*

2.3.4.9 Factory Farming

- a) *This is a term used for farming activities which are usually not dependent upon natural soil fertility and are carried out predominantly within buildings. It includes such activities as poultry farms, piggeries, mushroom farming, commercial kennels, catteries and similar uses but does not include the growing of horticultural crops or produce under cover that is dependent upon natural soil fertility.*
- b) *The concern with this farming activity is threefold:*
 - *Its possible location on good quality soils;*
 - *The effects of noise, smell, vermin, and other unpleasant characteristics and possible health hazards; and*
 - *Storage and disposal of liquid and solid wastes and possible contamination of water bodies and air pollution.*
- c) *Such uses may not be able to comply with the Rules and will probably be classified as Discretionary Activities so that possible adverse effects can be examined in relation to each specific activity and its location. Performance standards are provided in the rules for these matters but variations may be appropriate in specific cases”.*

(pages 1 – 42 to 1 – 43).

9.3.10 The assessment of effects on the environment in section 8.2 of this report considers in detail the above policy matters. Provided that the recommended mitigation measures are carried out, it is my assessment that the application will have no more than a minor adverse effect on the environment consistent with Policy RU63.

Waipa District Plan - Rules

9.3.11 The Rural Zone rules relevant to this application are assessed above in Table 3 and in Section 7.0 of this report. The conclusion from section 7.0 above is that the adverse effects will be no more than minor.

Proposed Waikato Regional Plan

- 9.3.12 The proposed Waikato Regional Plan (“PRP”) as amended by Council decisions (October 2001) is an integrated plan covering the key components (resources) of the environment for which the Waikato Regional Council has functions under the RMA. That is, water, river and lakebeds, land and soil, air and geothermal resources.
- 9.3.13 The PRP identifies how the resources of the Waikato Region are to be managed. It does this by identifying important issues relating to the use, development and protection of the resources and sets out objectives, policies and methods for addressing them. In particular, the PRP contains regional rules which categorise activities into different classes (permitted, controlled, discretionary or non-complying), with different standards, terms or conditions which apply to them, depending on the effects on the environment of that activity.
- 9.3.14 In terms of this application the PRP has rules relating to the discharge of stormwater and the discharge of sewage from effluent disposal systems. Thus while these matters are Regional matters, Council should require that the Applicant produce evidence that the proposed stormwater and effluent disposal systems comply with the rules or that the necessary consents have been obtained to ensure that the building will cause no erosion or contamination.

9.4 Section 104(1)(c) – Any other matters the consent authority considers relevant and reasonably necessary to determine the application

- 9.4.1 The submission received in relation to the proposal raises concerns over the past performance (or non-performance) of the Applicant to comply with the terms and conditions of their existing resource consent. In this regard the submitters request a probationary period of 3 years before any new buildings are consented to.
- 9.4.2 The Environment Court in Walker v Manukau City Council Decision No: C213/99 considered this issue and found “*that past conduct of an applicant is a matter of enforcement and does not provide a legitimate ground for refusing to grant a resource consent.*” Accordingly the Court has found that the proper way to raise issues about conduct is through enforcement proceedings or prosecution and that consent authorities should only consider whether the activities for which consent is sought are deserving of that consent rather than whether an applicant is deserving of consent.
- 9.4.3 Council records for the site contain no evidence of recent complaints received for past performance (on non-performance).

9.5 Part II – Purpose and Principles of the RMA

- 9.5.1 Part II is the purpose and principles of the RMA. The overall purpose of the RMA is to promote the sustainable management of natural and physical resources. “Sustainable management” is defined to mean managing the use, development and protection of such resources in a way that enables people and communities to provide for their social, economic and cultural well-being and their health and safety. At the same time they must:

- ◆ Sustain the potential of resources to meet the reasonable foreseeable needs of the future generations;
- ◆ Safeguard the life-supporting capacity of air, water, soil and ecosystems;
- ◆ Avoid, remedy or mitigate adverse effects on the environment of the activity.

9.5.2 These matters must be given effect to in policy, plan and rule making and when making decisions on resource consents. The District Plan details the objectives, policies and rules that the community considers will promote sustainable management within the District.

9.5.3 The District Plan seeks to protect prime agricultural land and the amenity of the rural environment from inappropriate development. The Rural Zone objectives and policies of the District Plan encourage the establishment of rural activities that are not concerned with soil quality to establish in areas that are not comprised of prime agricultural land. The proposal is consistent with these objectives as it is a rural activity on a site that is not comprised of prime agricultural land. Factory farming activities are classified as discretionary activities so that possible adverse effects can be examined in relation to each specific activity and its location. In this case the application has in my view been able to demonstrate that it will both be in accord with the objectives, policies and rules of the District Plan and will have no more than a minor adverse effect on the environment. Accordingly, approval of the application would in my view be consistent with the sustainable management aims of the RMA.

10 CONCLUSION

10.1.1 The proposal is to construct two new duck sheds and an implement shed in conjunction with the existing factory farming activities at 356 Oreipunga Road.

10.1.2 The property is zoned 'Rural' in the Operative Waipa District Plan, and the LUC plans for the site confirm that the property is comprised predominantly of land that is not defined as 'prime agricultural land'. The proposal is consistent with the objectives and policies of the Rural Zone which aim to protect prime agricultural land from non-farming development.

10.1.3 The effects on the environment have been described and assessed in section 8.2 of this report. The section concluded that the adverse effects are minor and/or could be mitigated by the imposition of conditions.

10.1.4 Overall, it is considered that the proposed extensions to the existing factory farming activity are compatible with existing site activities, and with the surrounding rural area.

10.1.5 In conclusion, after having considered the various matters of Section 104 of the RMA, it is my view that the application should be granted, subject to conditions to avoid, remedy and/or mitigate the identified potential adverse effects.

11 RECOMMENDATIONS

That:

- (a) The report of C Southworth, senior planner for Bloxam Burnett & Olliver Ltd dated 13 May 2005 be received.
- (b) In consideration of Section 104, and pursuant to Sections 104B and 108 of the Resource Management Act 1991, the Waipa District Council approves the application by Mike Verity to establish, operate and maintain two duck sheds with a combined total capacity for 1,200 birds and an implement shed as part of the existing factory farming operation (a duck hatchery operation for up to 100,000 ducks per annum) at 346 Oreipunga Road, Cambridge on the property, legally described as Lot 2 DPS 53385 Blk IV Mangatautari Survey District (CT45C/726), subject to the following conditions:

General

1. The operation and development proceed in general accordance with the information and plans accompanying the application (WDC reference: RC 4512), unless otherwise altered by the consent conditions.
2. The exterior of the proposed duck rearing sheds and implement shed shall be finished in neutral earth tone colours similar to the existing factory farming buildings. The consent holder shall submit the colour scheme for the buildings to Council's Planning Services Manager for approval prior to the issue of the building consent(s) by Council.

Operational Management Plan

3. Within one month of the issue of this resource consent, the consent holder shall submit an operational management plan to Council for approval. The operational management plan shall apply to the overall site activities, incorporate existing site development, and two additional duck sheds and implement shed that are now proposed. The Operational Management Plan shall identify how the site operations are to be managed in a manner which ensures that noise, odour, dust and other effects on the environment are kept to a minimum, in accordance with Sections 16 and 17 of the Resource Management Act 1991.

Advisory Note:

Under Sections 16 and 17 of the Resource Management Act 1991, the consent holder has a duty to avoid unreasonable noise effects, and to avoid, remedy or mitigate any adverse effects.

Landscape and Screen Planting

4. The existing shelter trees and screen planting shall be retained and maintained in perpetuity to the satisfaction of Council, and in accordance with the plan submitted with the application. Where any trees die or are damaged, they shall be replaced by the consent holder no later than the following planting season. Where any trees are to be felled or harvested, replacement planting or alternative screening shall be in place to the satisfaction of Council prior to the tree felling or tree harvesting. The purpose

of the planting is to form a dense screen of vegetation to reduce the visual impact of the factory farming buildings from the abutting properties and public road.

Advisory Note:

This condition shall not apply to the 6 trees that are to be removed to allow vehicular access to the duck shed building proposed on the southern side of the existing hatchery buildings.

Review of Consent Conditions

5. That the Waipa District Council may give notice pursuant to Section 128(1) of the Resource Management Act 1991 of its intention to review the conditions of this resource consent at any time for the following purposes:
 - (i) to review the effectiveness of the conditions of this resource consent in avoiding or mitigating any adverse effects on the environment from the exercise of this resource consent particularly noise, dust and amenity effects, and if necessary to avoid, remedy or mitigate such effects by way of further or amended conditions; or
 - (ii) to address any adverse effect on the environment which has arisen as a result of the exercise of this consent; or
 - (iii) if necessary and appropriate, to require the holder of this resource consent to adopt the best practicable option to remove or reduce adverse effects on the surrounding environment; or
 - (iv) to review the adequacy of and the necessity for monitoring undertaken by the consent holder;

Noise Generated By On-Site Activity

6. That the noise level from all activities on the site shall not exceed the following levels when measured at or within the notional boundary:

Day Time (7am to 8pm): 50dBA (L_{10})

Night Time (8pm to 7am): 40dBA (L_{10})

No single event noise level L_{max} shall exceed 65dBA between 8pm and 7am.

The noise level shall be measured and assessed in accordance with the requirements of New Zealand Standard NZS 6801:1991 "Measurement of Sound" and New Zealand Standard NZS 6802:1991 "Assessment of Environmental Sound" except for the requirements specifically stated in this control.

Noise levels shall be measured in accordance with the requirements of clause 5.3.3 of New Zealand Standard NZS 6801: 1991 "Measurement of Sound" and the duration of any measurement period shall not be less than 30 minutes.

Note: Notional Boundary means a line 20 metres from the external walls of any rural dwelling outside the application site boundary or legal boundary of the rural dwelling whichever is the closer to the rural dwelling.

7. The consent holder may be required to provide a design certificate from an appropriately qualified acoustic engineer to Council's Environmental Safety Manager to demonstrate compliance with the stated noise levels specified in condition 6 above.
8. That the noise level from construction activities (i.e. construction of the building, earthworks and construction of any internal access roads) shall comply with and be assessed in accordance with the provisions of New Zealand Standard NZS 6803:1999 "Acoustics – Construction Noise".

Transportation

9. Truck movements to the site for the purpose of servicing the duck rearing operation shall be restricted to within the hours of 6:00am and 8:00pm daily.
10. Five (5) on-site carparking spaces shall be provided for the factory farming activities. The carparking spaces shall be formed, delineated and set out in general accordance with Councils Code of Practice for Land Development and Subdivision, to the satisfaction of Council.

Waste Storage and Disposal

11. That all shed litter and solid effluent shall be removed from the sheds at regular intervals:-
 - (i) in appropriate sealed and covered units, to prevent any nuisance conditions arising from odour or flies; and
 - (ii) dry litter shall be regularly applied to the floors of the sheds to prevent excessive moisture within the litter floor.
12. No outdoor storage of manure and poultry house cleanings shall occur on site.
13. All dead stock must be removed from the duck sheds daily, and refrigerated then removed off the site and disposed in an approved manner.
14. That all waste from the operation be stored in suitable containers with appropriate lids and be removed from the site when full.
15. Any under-floor drainage channels must be washed down daily.
16. The poultry sheds must be regularly treated for fly control.
17. All poultry feeds must be stored in rodent-proof containers/storage compartments.
18. Any odour nuisance must be abated without delay, to the satisfaction of Council. In the event of any extreme case of persistent offensive odour, Council may insist that the best practical option to remedy or mitigate any adverse effect could be to remove all ducks from the shed(s) and thoroughly clean the shed(s) in question.

19. The drinker systems for the duck rearing sheds shall be designed to avoid excess water spillage on the litter floors.
20. Prior to the issue of the building consent(s) for the duck sheds and implement shed, the consent holder shall obtain all necessary resource consents from Environment Waikato. Should no further consents be required for the proposed extensions to the existing factory farming activities, the consent holder shall submit to Council a letter from Environment Waikato stating that no further resource consents are required.

Archaeological

21. That in the event that an archaeological site and or any artefacts or remains are found during any development undertaken as part of this proposal, the consent holder will cease work in that area immediately and consult Ngaa Iwi Toopu O Waipa and the New Zealand Historic Places Trust. If further disturbance is unavoidable an authority from the Historic Places Trust will be necessary. Any removals or reburials are to be in accordance with iwi protocols and are to be done prior to work recommencing in the location of the discovered site.

Administration and Monitoring Charges

22. That charges set out in accordance with Section 36 of the Resource Management Act 1991 shall be paid to the Waipa District Council for carrying out of its functions in relation to the administration, monitoring and supervision of this resource consent.

Reasons for Decision

- (a) The proposal to extend the existing factory farming activities by erecting two new duck sheds and an implement shed is considered to be consistent with the Rural zone objectives and policies of the Operative Waipa District Plan., which aim to protect prime agricultural land from non-farming development.

The site is comprised predominantly of Class VI soils that are not deemed to be 'prime agricultural land' according to the District Plan definition. The expansion of an existing factory farming activity on a site predominantly comprised of land that is not 'prime agricultural land' is considered compatible with the rural zoning of the site and the surrounding environs.

- (b) The application is an extension to the existing factory farming activities already established on the site, and legally consented to by resource consent RC1412
- (c) Review condition 5 will ensure that any adverse effects that may arise from the exercise of this consent can be addressed by reviewing the adequacy of the conditions.
- (d) The potential adverse acoustic effects of the activity will be able to be avoided, remedied or mitigated by the imposition of conditions 6, 7 and 8. These conditions will ensure that the District Plan maximum noise limits for the Rural Zone are complied with.

- (e) No external lighting is proposed as a result of the extension to the existing factory farming activities. Council is therefore satisfied that there will be no light spill and glare from the site that will cause any level of discomfort to neighbours.
- (f) Condition 10 will ensure that sufficient on-site carparking is provided for staff and visitors.
- (g) Conditions 11 – 14 will ensure that any liquid or solid waste is appropriately stored and/or disposed of.
- (h) Conditions 2, 4 and 12 will ensure that the adverse visual effects of the activity are mitigated. The proposal will introduce three new buildings into an existing factory farming operation. The buildings are similar in design, scale and appearance to the existing factory farming buildings already established on the property, and will be sited to maximise the screening potential of the existing planting and topography.
- (i) The conditions imposed are considered to address the relevant planning concerns of the submitter in opposition to the application.
- (j) Council is satisfied that the factory farming activities are consistent with the rural zoning of the site, and can be operated and managed without any potential adverse effects on the environment.
- (k) The two buildings proposed on the southern side of the property (the proposed implement shed and the 1,000 capacity duck shed) shall be setback at least 82 metres from the nearest boundary, and will be screened from the abutting properties by the existing planting. Both buildings comply with the 30m minimum setback requirement for factory farming and the 50m setback required from neighbouring dwellings. A suitable buffer area is therefore provided between the buildings, and the dwelling on the abutting property (384 Orepunga Road, G & J Stacey).
- (l) The proposal to demolish the existing piggery buildings on the northern side of the property, and erect a new duck shed in its place, does not comply with the 30m minimum setback requirement. However, the proposal does comply with the 50m minimum setback required from neighbouring dwellings. The duck shed will be sited 19.7m (20m) from the northern boundary, and 56.7m from an existing farm cottage on the abutting property. The adjoining property (338 Orepunga Road) is owned by S Laxon & R Emery of Victoria, Australia. In accordance with Section 94(1) of the Resource Management Act 1991, Council served notice on the owners and occupiers of the aforementioned property. However, neither party lodged a submission to the proposal. The proposal to build within the 30m side yard requirement can be approved by Council on the basis that the land between the proposed duck shed and the adjacent farm cottage is a heavily planted gully area. The topography and planting therefore provide a natural buffer /screening between the two differing landuses.

C Southworth
Senior Planner – Bloxam Burnett & Olliver Limited

Approved for Regulatory Committee Agenda

Garry Dyet
Deputy Chief Executive

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APPENDIX 1

LOCALITY PLAN

APPENDIX 2

RESOURCE CONSENT RC1412

APPENDIX 3

COPY OF THE APPLICATION

APPENDIX 4

SUBMISSION RECEIVED FROM G & J STACEY

APPENDIX 5

MEMO FROM COUNCILS ENVIRONMENTAL HEALTH OFFICER