

Notification / non-notification decision report

For applications lodged from 30 September 2020 onwards.

- Applicant: Ruru Building Limited
- Application number: RM210785, RM210786, RM220974
- Description of activity: RM210785 - Land use consent to undertake an industrial activity in a Rural 1 Zone which is the construction of relocatable homes, involving:
- construction of buildings within the boundary setback and exceeding building coverage,
 - construction of buildings which breach the airport height controls for the Motueka Aerodrome,
 - construction of more than one vehicle access for the site; and
 - construction of bunds (earthworks) that may result in diversion of flood waters.
 - change of land use from productive to industrial per the NES for contaminated soils
- RM210786 - Discharge consent for domestic wastewater exceeding 2000 litres per day.
- RM220974 – Damming or diversion of floodwaters by earth bunds.

1. Complete eight step notification decision making process

Complete Appendix A.

2. Activity status

Discretionary activity

Notes for the following (click ▶ to open)

- (a) Identify why / how it breaches a lesser status or permitted activity performance standard.
- (b) Identify any rules requiring / precluding notification and / or re relevant matters of discretion / control, and
- (c) Identify any other statutory documents that are relevant for your assessment (e.g., NPS, WCOs etc)
- (d) It's assumed you do not have proposed plan and operative plan provisions with legal effect at the same time - but if so you must include both.

The following summarises the reasons for consent, activity status, rules or regulations

The original application dated 24 August 2021 (pages 22-23) provided a list of relevant rules in the Tasman Resource Management Plan (TRMP) and regulations in the National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) showing the various components of the overall proposal that require resource consent. Further information received regarding the proposal identified that an additional consent is required for damming or diversion of floodwaters. All of the relevant consent requirements are summarised below, taking account of amendments that have been made to the proposal since the application was first lodged:

RM210785 – Land Use

The proposal does not comply with the following TRMP **Rural 1 Zone** permitted activity rule conditions:

17.5.2.1(a) – **Activities** - The proposed activity is an industrial activity. Although homes are to be

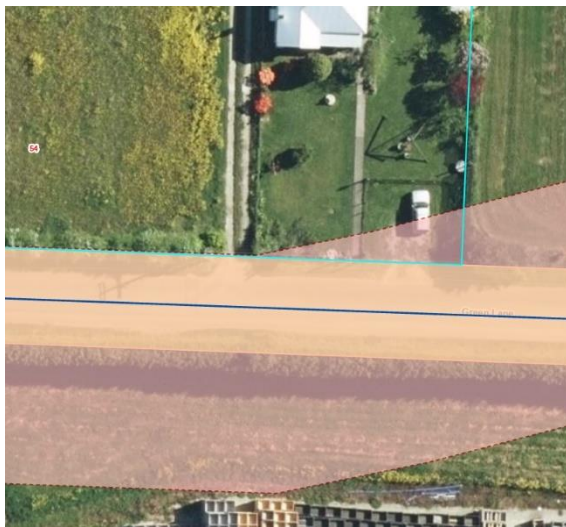
sold from the site that aspect is considered to be an ancillary commercial activity rather than a separate land use activity. Although finished relocatable homes are not 'buildings', they are products of the industrial activity, and the TRMP definition includes storage. The proposed industrial activity is discretionary per Rule 17.5.2.9.

Regarding **Noise Standards** - the original application stated that the proposed activity will breach permitted activity noise levels in rule condition 17.5.2.1(c) – for a number of surrounding dwellings. However, the noise levels set out in 17.5.2.1(c) only apply to permitted activities - they do not automatically apply to discretionary activities, which are to be assessed on their merits, although the permitted noise standards may serve as a permitted baseline.

17.5.3.1(f) – **Building Height** – the amended application includes 9 Container Shelters with curved roofs which will be about 7.9m above ground level at the highest point, thereby exceeding the permitted 7.5m height and therefore they are Restricted Discretionary per Rule 17.5.3.3, with the Airport Protection rules also applicable (see below).

17.5.3.1(h)-(kc) – **Building Boundary Setbacks** – the amended site plan shows that the proposed Container Shelters will comply with the required 5m setback to internal boundaries and 10m to the road boundary setback. However, the proposed 3.0m high x 8m wide earth bunds are 'buildings' because they meet the TRMP definition of 'building' and they will be situated less than 5m from internal boundaries, therefore the proposed bunds are Restricted Discretionary per Rule 17.5.3.3.

17.5.3.1(l) – **Building coverage** - The proposed and existing buildings will result in a total building coverage on the site which exceeds 5% and 2,000m². Therefore, they are Restricted Discretionary per rule 17.5.3.3.



For completeness, it is noted that a road widening designation along the north side of Green Lane including the application site lapsed on 1 November 2018 (but not removed from the TRMP Planning Maps until September 2021, just after the application was lodged). Green Lane is only 10m wide. There is an **indicative road widening** of Green Lane on the Planning Maps which takes in a 60m² triangular area in the southeast corner of the application site. No new buildings are proposed for this area of the site, so the setback condition in rule 17.5.3.1(h)(vi) is not triggered. Relocation of the existing car parks would be a matter to be addressed if/when the road upgrade is implemented.

The proposal does not comply with the following TRMP **Transport** rule conditions:

16.2.2.1(a) - The proposal has more than one access and so compliance with the Nelson Tasman Land Development Manual (NTLDM) section 4.10.2.3 is not achieved. Resource consent is required per Restricted Discretionary Activity rule 16.2.2.6 for more than one access.

The proposal does not comply with the following TRMP **Airport Protection** rule conditions:

16.11.2.1 – Height Limits – the application site is directly under the northeast flight path for the runways at Motueka Aerodrome, and the proposed buildings do not comply with the height limits placed on structures and vegetation by the Obstacle Limitation Surface (OLS) in Schedule 16.11A for the flight approach to the aerodrome. Resource consent is required for the increased building height as a Restricted Discretionary Activity per Rule 16.11.2.2.

It is noted that the land area of the aerodrome is designated for aerodrome purposes (TRMP D209), but the airspace is not.

Status of Airport Protection Rules

In their further information response on 25 March 2022, the applicant challenged the validity of the TRMP 16.11.2 height limit rules, which were adopted into the TRMP in 1999. The issues were a “do not scale” notation on the maps in the Schedules 16.11A and 16.11B, and confusing references to both the end of the runway, and the end of the runway strip, for the “inner edge” or “level 0” of the approach OLSs - which they asserted made these rules void for uncertainty. Council staff reviewed these issues which resulted in corrections being made to Schedules 16.11A and 16.11B in July 2022, to remove the “do not scale” notations (that had been added in 2005) despite them not causing any issues previously, and adding a better scale; and to clarify the OLS as starting at the ends of the runway (as they were in 1999), rather than the ends of the runway strip – a 30 metre linear difference, which given the 1:50 inclination of the OLS effectively raises it by 600mm over the application site. The opportunity was also taken to make a minor correction to the alignment of the OLSs for the Motueka Aerodrome, which was distorted on the map in Schedule 16.11A, so that it aligns with the runways as was originally intended.

The applicant has questioned the validity of these corrections. Council’s position is that the rules were capable of being applied, but the corrections were done to address the stated confusion, not to introduce any additional controls or restrictions over the application site, and the outcome does not disadvantage the applicant. The applicant has acknowledged that adverse effects, if any, on the operation of the aerodrome can be considered under the discretionary status of the application (ref: Applicant’s letter of 16 August 2023 paragraph 13(a)). The OLS height restriction is discussed further in Section 3 of this report.

Status of Relocatable Homes Stored on Site

Whereas finished relocatable homes are not ‘structures’ as defined by the RMA (because they are not “fixed” to the land), and therefore not directly subject to these Airport Protection rules, any homes stored on site are part of the industrial activity as defined by the TRMP, and therefore require consent as a discretionary activity.

NESCS

A change of use is proposed as the site will be used for an industrial activity rather than productive land uses. The site is not recorded as a HAIL but has been used for market gardening. There is no need to obtain a Preliminary Site Investigation, so the original application included this as being a discretionary activity per Regulation 8(4) of the NESCS. The Supplementary Planning Report (March 2022) states the application site is not a “piece of land” to which the NESCS apply. Hence this consent is likely not required.

RM210786 – Wastewater Discharge consent

The wastewater discharge from the proposed activity does not comply with TRMP Permitted Activity Rule 36.1.2.4(c) as the weekly volume of effluent discharged will exceed the weekly averaged flow of 2,000 litres per day. As such, this is a Discretionary Activity per Rule 36.1.5.2.

Stormwater Disposal

Stormwater discharge to land from the proposed activity appears to be able to comply with the Permitted Activity conditions of TRMP Rule 36.4.2.1(1), hence no stormwater discharge consent is required. However, that is subject to the design and capacity of the proposed stormwater disposal to soak pits on site being overall fit for purpose in terms of the buildings and hard stand areas shown on the amended site layout.

RM220974 - Diversion or Damming of Flood Waters by Earth Bunds

One additional matter addressed in the further information requests, is the potential for the proposed earth bunds around the periphery of the site to dam or divert floodwater. This breaches the TRMP Land Disturbance permitted activity rule condition 18.5.2.1(v) damming or diversion of

floodwaters, within Land Disturbance Area 1 as defined on the TRMP Planning Maps. Restricted Discretionary Activity rule 18.5.2.5 applies for general earthworks that require resource consent, however that rule has no matters of discretion relating to flood hazards – unless Matter 25 under the heading *Additional Matters for Land Disturbance Associated with Quarrying* can be read as applying to non-quarrying activities such as earth bunds? Otherwise, it may be treated as a discretionary activity per Section 87B(1) of the Resource Management Act 1991 (the Act). If the proposed bunds are considered to be structures (as defined by the Act - *facilities made by people and fixed to the land*), then the TRMP regional Restricted Discretionary Activity rule 31.1.5.2 for damming and diversion of flood waters applies. The applicant agreed to add this consent requirement to the application bundle on 6 September 2022.

Summary

RMA	Consent Type	Activity	Status
Section 9	Land Use	Undertake an industrial activity which is the construction and storage of relocatable homes	Discretionary
Section 9	Land Use	Construction of buildings exceeding permitted height, within the boundary setback and exceeding building coverage	Restricted Discretionary
Section 9	Land Use	Construction of more than one vehicle access	Restricted Discretionary
Section 9	Land Use	Construction of earth bunds that may dam or divert flood waters (or Section 14 RMA applies)	Discretionary
Section 9	Land Use	Construction of buildings which breach the height restriction in TRMP Schedule 16.11A.	Restricted Discretionary
NESCS	Change of land use	Change of use of productive land to industrial activity (confirm if this is needed?)	Discretionary
Section 15	Discharge	Discharge of domestic wastewater exceeding 2,000 litres per day	Discretionary
Section 14	Dam or divert water	Construction of earth bunds that may dam or divert flood waters	Restricted Discretionary

These resource consents required are all inter-related and are considered collectively (bundled) as a **discretionary** activity.

3. Adverse effects on the environment

Assessment must follow section 95D:

- (a) must disregard any effects on persons who own or occupy: (i) the land in, on or over which the activity will occur, or (ii) any land adjacent to that land; *[identify adjacent properties if needed]*
- (b) may disregard an adverse effect of the activity if a rule or NES permits an activity with that effect *[non-fanciful permitted baseline, avoid cherry picking; give reason if you choose not to apply];*
- (c) in the case of a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or NES restricts discretion; *[for bundled consents likely that overall activity status applies];*
- (d) must disregard trade competition and the effects of trade competition;
- (e) must disregard any effect on a person who has given written approval to the application.

<input type="checkbox"/> Minor or less than minor	<input checked="" type="checkbox"/> More than minor
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Assessment and reasons:

Information Considered

For this appraisal, all the information supplied by the applicant has been considered, including:

- the original application lodged on 24 August 2021 with all its attachments;
- the further information with amendments to the application supplied on 25 March 2022, plus some interim correspondence with the applicant;
- correspondence in July-August 2022 between Council and the applicant regarding issues with the Aerodrome Height Controls (or OLS) in TRMP Schedule 16.11A;
- the further information received on 6 September 2022; and
- the further information received on 13 February 2023.

I have viewed the site and surrounding area from the public roads, and have referred to the aerial photos on Council's Geographic Information System (GIS).

Comment has also been received from Council's staff experts on some aspects of the proposal including the further information where relevant to their expertise.

Motueka Aerodrome is owned and operated by Tasman District Council. Comment was also requested (and received) from the Aerodrome Managers regarding the proposed intrusions above the OLS.

References are made to key points in this information throughout the following appraisal.

Proposed Site and Surrounding Environment

The site of the proposed activities is a 1.371 ha (92m x 144m) rural property at 54 Green Lane, on the western periphery of Motueka township. The site is Zoned Rural 1 by the TRMP, it is mapped as Land Use Capability Arable (*Multiple Use land, with few limitations*) and also as Productive Land Classification A in 1994 and Class B1 in 2021. It has previously been used for market gardening. It has an existing dwelling and outbuildings. This relatively flat land is now occupied by some elements of the proposed industrial activity.



While the site is on the fertile Motueka plain, it is also within an area of mixed land use including some residential properties, particularly along Queen Victoria Street to the west, and a large coolstore operation (industrial activity) on the south side of Green Lane. The site is part of an 11 ha Rural 1 zone block that is bounded by Deferred Residential zoning to the north and east, and deferred light industrial zoning to the south, plus there is approximately 1.5 hectares taken up by the residential properties along Queen Victoria Street which have existed for at least 100 years.

Motueka Aerodrome is located to the southwest of the application site, 80 metres directly between the closest boundary points of the two sites, and approximately 160 metres to the northeast end of the paved runway from the southwest corner of the site. Green Lane and Queen Victoria Street run through this area between the site and the aerodrome. The presence of the aerodrome and the height controls for the runway flight approach would be a major reason for retention of the Rural 1 zoning on the land north of Green Lane including the application site.

A number of small-scale commercial aviation companies and flight schools operate from the aerodrome. As mentioned in Section 2 above, the northeast flight path extends directly over the application site. Aircraft noise is a feature of the surrounding environment, as is noise from traffic on the roads, from the coolstore operation across Green Lane, and general horticultural and other rural activities in the area.

Amended Proposal

The original application provided an overview (pages 11-13) of the proposed activities, which forms the basis of the following summary description modified to include subsequent amendments received on 25 March 2022. The Site Layout Plan in “Figure 2” below is copied from the Marshall Day Acoustics Noise Report.

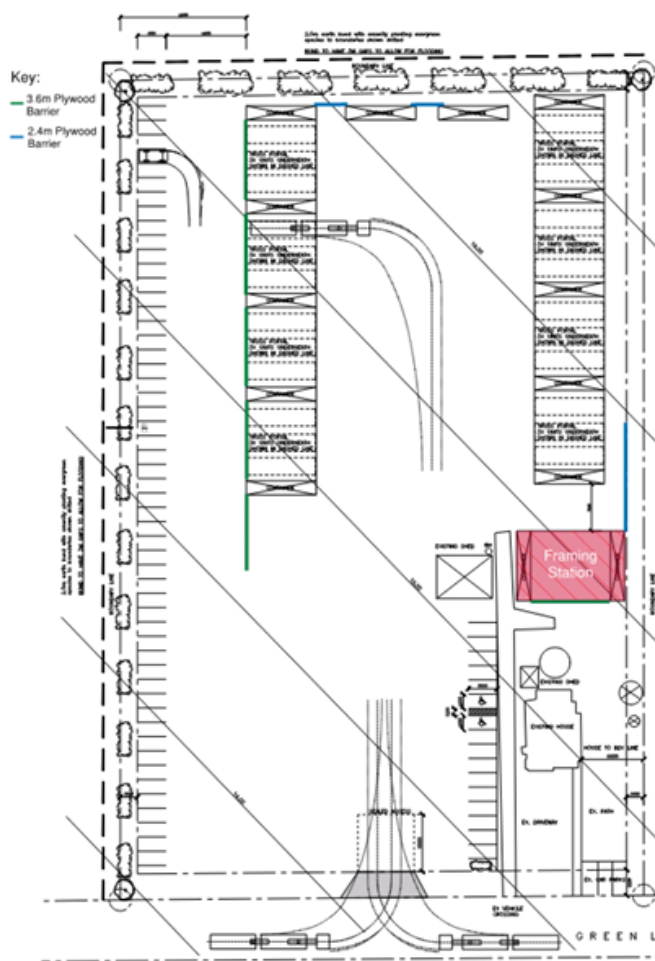


Figure 2: Site layout (source: Allure Architecture)

The applicant operates an industrial activity which is the construction and storage of relocatable homes. The homes are constructed on the application site and then shipped off site to a site specified by the purchaser, these sites may be within the Tasman District or elsewhere in New Zealand.

This application seeks to authorise the industrial activity which has already commenced on site due to the high demand already experienced for the homes. The application also seeks to authorise further expansion of the activity.

When the application was first lodged the applicant was operating ‘stage 1’ of the activity which involves construction of approximately 9 relocatable homes at any one time, utilising up to 30 builders. A framing station located on the eastern boundary (shown red on Figure 2), will contain the circular saw, grinder and a nail gun within a shipping container enclosure with a PVC arched roof.

It is intended that production levels will double into the ‘stage 2’ operation which

will see a maximum of 18 relocatable homes under construction on the site at any one time with up to 60 builders.

Stage 2 involves installation of two lines of container shelters to provide storage for equipment and materials associated with the activity and to cover the relocatable homes under construction.

Completed homes are to be stored in the south-west area of the subject site. No manufacturing would occur in that area. It is anticipated that approximately one home per week would be transported off the site on a trailer.

Being located close to the Motueka Aerodrome and directly under the OLS, there are limits on the height of structures and landscaping to ensure safe passage for aircraft landing and taking off from the airport. The applicant is seeking a dispensation from this height restriction on the basis that the 1:50 slope of the OLS is not able to be used in practice due to the close proximity of the public roads at the northeast end of the runway (refer the Haines report, and NewtonSurvey plan OLS Road Clearance 1:50 Depiction dated June 2021, and plans dated 2 & 6 September 2022).

The activity, which is partially undertaken outside and involves use of machinery and equipment generates noise which may, at the boundary of certain residential dwellings, exceed reasonable noise levels. The applicant originally proposed to construct a 2m high bund around the perimeter of the site (northern, eastern and western boundaries) to provide some noise mitigation from the proposed activity; and in order to enhance amenity values the bunds would be landscaped (grassed and then planted with evergreen species). However, the bunding has been increased to 3m high, and in response to the findings of a surface flood risk assessment carried out by Envrolink (March 2022), the proposal has been amended to provide gaps (minimum 3 metres) in the bunding to enable surface water to pass through.

Given that, a combination of shipping containers and plywood fencing around the proposed manufacturing area is now proposed to provide mitigation to surrounding noise sensitive receivers during Stage 1 and 2 operations. To prevent flooding, the plywood fencing will incorporate a mass loaded vinyl section to the lower portion of the fencing to allow stormwater flow. Figure 2 (amended site layout) shows the proposed container and plywood fencing locations. The barrier indicated on the eastern boundary could be the combination of shipping containers and plywood fencing, as shown to the west of the manufacture area.

Other mitigation options such as continuous earth bunding around the site perimeter have been explored. However, due to flood control, a continuous bund is not practical. If apertures within the bunding were included to assist with flood control, there would be a significant reduction in the noise attenuation achieved.

Hazardous substances are and will be all stored in accordance with current Health and Safety and Hazardous Substances requirements. This involves storage (shipping) containers above ground level and so poses no risk to stormwater / groundwater. Incompatible substances will be stored separately in different containers as indicated on the site plan. The Supplementary Planning Report states (page 3) that the types and volumes of substances stored are consistent with what could occur as of right under a permitted use of the site and all TRMP permitted activity rule conditions for the use or storage of hazardous substances can be met.

The original application stated that operating hours on site for the activity would be:

- Monday – Friday 7.00am-5.00pm
- Saturdays 7.00am – 3.00pm

Although on all of these days, noise generating activities would not commence until 7.30am.

There may be office staff and visitors onsite on Sunday, however, no construction activities will be undertaken on Sundays.

However, the noise effects assessment report provided by Marshall Day Acoustics for the amended application indicates that manufacturing hours would be 8am to 4:30pm Monday to

Friday, and they have also considered the noise effects between 8am and 3pm Saturdays. No manufacturing would occur on Sundays or public holidays.

From this, it is understood that the applicant is seeking consent for noise generating manufacturing activities to be restricted to Mondays- Fridays 8.00am-5.00pm, and Saturdays 8.00am-3.00pm.

At present the existing dwelling is utilised as a caretaker's residence as well as for offices associated with the activity. Once the shed is constructed the applicant would like the option to relocate the offices into the shed.

In order to facilitate the activity a new main access has been constructed on Green Lane (and one of the two existing crossings is to be closed). Parking is to be provided onsite for tradespeople, office staff and visitors to the site. The staff carpark is to be located on the western boundary. About 60 vehicle movements will occur between the hours of 7am–9am and again between 3pm–5pm via the main accessway on Green Lane. Potential effects of traffic movements and road crossings (including the amendments to the proposed activities) have been assessed by Traffic Concepts Limited.

Stormwater will be managed onsite and discharged to a number of soak pits positioned around the property. The proposed soak pits have been sized and designed to account for the full extent of the future activity which includes the proposed shed, parking and access area and all-weather surface for building construction (refer the design report prepared Gary Stevens). As noted in Section 2 above, the design indicates that compliance can be achieved with the permitted activity conditions of Rule 36.4.2.1. The site is accepted as being large enough to accommodate a fit for purpose disposal system; however, based on Council staff knowledge of the local ground conditions and the stormwater system required for the coolstore across Green Lane, the proposed system needs to be confirmed as being fit for purpose.

The existing dwelling has a wastewater discharge system, and it has been calculated that with the use of the dwelling for residential accommodation and office facilities the discharge will be approx. 600 litres per day. However, once the activity is fully established with a maximum of 60 staff onsite and new toilet facilities within the proposed shed the volume of discharge will increase by 3,000 litres per day. A new onsite system is proposed to cater for this level of discharge and a discharge permit is required as the volume exceeds the permitted activity level of 2,000 litres per day.

Assessment

Taking account of all of the information referred above, and the activities for which consent is required, the principal issues associated with the proposal activity involving actual and potential effects on the environment are considered to be:

- (a) Potential adverse effects on future operations or use of Motueka Aerodrome caused by intrusions of obstacles above the OLS and presence of the proposed industrial activity under the runway flight approach;
- (b) Potential adverse effects of using highly productive rural land for industrial purposes;
- (c) Potential surface water contamination of the wastewater discharge to the adjacent watercourse, and groundwater contamination;
- (d) Potential adverse effects of the damming or diversion of surface water (flooding) by the proposed earth bunds around the periphery of the site;
- (e) Potential adverse effects of noise generated by the proposed industrial activities;
- (f) Potential adverse effects on rural character and amenity by an industrial activity.

To avoid doubt, other matters such as storage of hazardous substances, HAIL, and the additional traffic movements that would be generated by the proposed activity, are accepted as either meeting permitted activity rule standards or not causing adverse effects in themselves on the environment, based on the expert assessments provided with the application and review by Council's respective staff experts.

As noted above, there is a caveat on the proposed stormwater system design and capacity being fit for purpose.

Items (d), (e) and (f) in the list above are limited to adjoining or adjacent lands, therefore they are considered in Section 5 of this report.

(a) *Potential adverse effects on future operations or use of Motueka Aerodrome caused by intrusions of obstacles above the OLS defined in the TRMP and presence of the proposed industrial activity under the runway flight approach:*

The report by Mike Haines Aviation Ltd (dated 28 October 2021) provides a good summary of the civil aviation system in New Zealand as it applies to Motueka Aerodrome and the guidance published by the Civil Aviation Authority (CAA) for how OLSs should be determined and managed.

A key point made by Haines is that the Motueka Airport OLS is detailed in Schedule 16.11A using a protection level different to the day, VFR runway OLS which the aerodrome operates at. The TRMP OLS is set at 1:50 which is normally applied to an international airport with aircraft operations requiring a runway much longer than Motueka currently has.

The aerodrome has a paved runway and a grassed runway side-by-side. It currently has no lighting for night flights, and has no published instrument approaches. The paved runway was upgraded in 1991-92 with a length of 724 metres. At that time the OLS was defined in the Motueka Borough Transitional District Scheme with a 1:30 slope. Displaced thresholds were positioned on the new paved runway, the one at the northeast end being placed 35m from the end of runway (ie, the Displaced Threshold is marked by the broad white stripe painted across the runway and the white “piano keys” that can be seen in the aerial photo on 5 of this report). That was done to provide sufficient clearance over the adjacent roads for an operational OLS, being the 1:20 slope for a day visual flight runway, allowing 4.5m clearance for the height of road vehicles as per the CAA guidance at that time.

However, in 1999, for the Proposed Tasman Resource Management Plan, an OLS with 1:50 slope was recommended and adopted for Motueka aerodrome. The Council staff report of the time refers to the need to protect “future capabilities” and the possibility of night-time use.

It is noted that since 1999, a 30m starter extension has been installed at the southwest end of the paved runway, and a 50m pad for drag racing has been installed at the northeast end. While the Displaced Thresholds have not been changed, these two extensions have extended the take-off and landing distances on the paved runway to 743m (note the plane positioned on the Drag pad in the aerial photo on page 5).

Height controls also apply along the sides of runways – referred to as Transitional Side Surfaces. There is an anomaly in the Motueka OLSs as defined in TRMP Schedule 16.11A because the Transitional Surfaces start at the edge of the 50m wide combined runway strip, rather than matching the full 150m width of the 1:50 approach OLS fans. No explanation has been found for this anomaly, and it was not addressed in the corrections made to Schedule 16.11A in July 2022 because it was not necessarily an error – it may have been intentional. This anomaly does not directly affect the application site, which is entirely under the OLS fan for the northeast approach, but it is a factor in considering the purpose or utility of the 1:50 OLS.

As Haines states: *The OLS published [in the TRMP] is therefore for a large runway, at least 1200 metres long with an instrument approach.* Haines also observes that Night or Instrument Approach flying with the 1:40 slope OLS per the CAA guidance, would require the Displaced Threshold to be moved 100m further along the paved runway to allow sufficient clearance above the road traffic, effectively shortening the runway by 14 percent of

its length. This is illustrated on NewtonSurvey plan T2676 **T22 Sheet 3 Rev3** dated 06/09/202 and long-section T2676-T20v3 dated 2/9/2022, showing a clearance of 2m for the 1:40 slope above the closest of the proposed container shelters.

That is the basis on which the applicant and their advisers state that the proposal will have no adverse effects on the operation of the aerodrome – because the 1:50 slope is not applicable to this small aerodrome with runways less than 800m in length; and a 1:40 approach is not useable from the existing ends of the runways or the Displaced Thresholds because the required clearance above the public roads is not achieved.

Haines states: *I do not consider that it is feasible for the Motueka Aerodrome OLS, which is currently 1:20, to be altered to match the 1:50 OLS in the TRMP.* This comment refers to the operational OLS with a 1:20 slope that was adopted for the aerodrome in 2020, as illustrated on the NewtonSurvey plan T2676 **T23 Sheet 4 Rev3** dated 06/09/2022. This operational OLS was adopted following a review of Obstacles by the Motueka Aerodrome Advisory Group (MAAG) in 2019. That group accepted that the OLS parameters for aircraft below 5700kg MCTOW (refer to the Haines Report for details) are more appropriate for the aerodrome, and they checked whether a plan change could be made to alter the TRMP Schedule 16.11A accordingly. In the event, a plan change did not get actioned in 2020, or since, and any changes to Schedule 16.11A will likely have to wait for the general review of the TRMP that is underway, but it will be several years before a new plan is publicly notified.

Comments received from the aerodrome manager and some users in relation to the Ruru Homes proposal, can be summarised as follows:

- A general concern that any relaxation of, or dispensation to the existing height controls on the runway approaches should not be allowed because they assist in maintaining overall safety of flight operations.
- Health and Safety underpins everything in Aviation from engineering, commercial operations, recreation operations and general public engagement within the sector. The erection of any further obstacle directly under the flight path and within such close proximity to the end of the runway only increases the risk for all, including the occupancy of the proposed structures.
- An obstacle in the take-off and landing flight path will affect aircraft with both mechanical turbulence and up/down drafts. Existing examples include the white orchard nets to the South of the aerodrome, the houses and hedges at each end of each runway, and the Golden Bay Fruit Packers' coolstore.
- Any obstacle on the departure or landing flight path increases the possibility of serious injury or death, should the pilots experience an engine failure.
- It is imperative that Motueka Airport remains a viable commercial facility for the benefit of the local community and the region, the airport is a strategic asset and the community value of accessible airports has been displayed most recently in the cyclone events in the North Island, also after Cyclone Gita when access to Golden Bay Mohua was cut off and relied on air support from both Nelson and Motueka to serve the area and community.
- If Nelson Aviation (NAC) decides to move its Instrument Flight Rules (IFR) Base from Nelson Airport to Motueka Aerodrome, for any reason, they will need at least, but not limited to, a 1:40 gradient for departures, based on the weight of their current aircraft (less than 5,700 kg). This will also involve NAC contributing to the revival of a previously approved Airways GPS approach.
- NAC may introduce a new fleet of planes at the right time for them in the future. That may include electric aircraft. Data on take-off and landing distances required, and climb

performance is not known yet, so they do not want to see a restriction on the departure gradient of 1:50, as adopted into the TRMP in 1999.

- Road closures may be sought and approved on a temporary basis to enable use of the full length of the paved runway for night or instrument approaches requiring the 1:40 OLS (acknowledging that some existing obstacles would need to be removed).
- Allowing additional obstacles to intrude over the OLS may be difficult to reverse, thereby hindering the future opportunity to use the aerodrome for the broader range of flights that the height controls are intended to protect.

Considering these respective views, there is a strong argument that the 1:50 slope OLS is not appropriate or necessary for foreseeable flight operations at Motueka aerodrome, as per the MAAG review 3 years ago and despite some alternative views among users as summarised above. That 2019 MAAG review indicates nothing new or significant had occurred over the 20 years since 1999 with regard to protecting future capabilities that would need the 1:50 OLS. But what about the 1:40 slope for night and/or instrument approach?

The 1:20 slope OLS adopted in 2020 is for current flight operations. What is unknown is whether the 1:40 slope would be retained in any proposed change to the height controls In Schedule 16.11A, if a plan change had been initiated in 2020, given the purpose of protecting future capabilities and particularly the possibility of night-time use, and if so, where would the Inner Edge of the 1:40 slope be placed?

The applicant's position assumes that the public roads will continue to be barriers preventing use of the full length of the runways, hence they show the 1:40 threshold as having to be placed 100m further along the runway from the current Displaced Threshold, so reducing the available length of runway.

However, if temporary road closures were to be approved, then it would be possible for night and/or instrument approach flights to use the displaced thresholds, if not the end of the paved runway (provided that any other obstacles were removed as necessary, which may include at least one of the two closest houses at Nos.63 and 65 Queen Victoria Street).

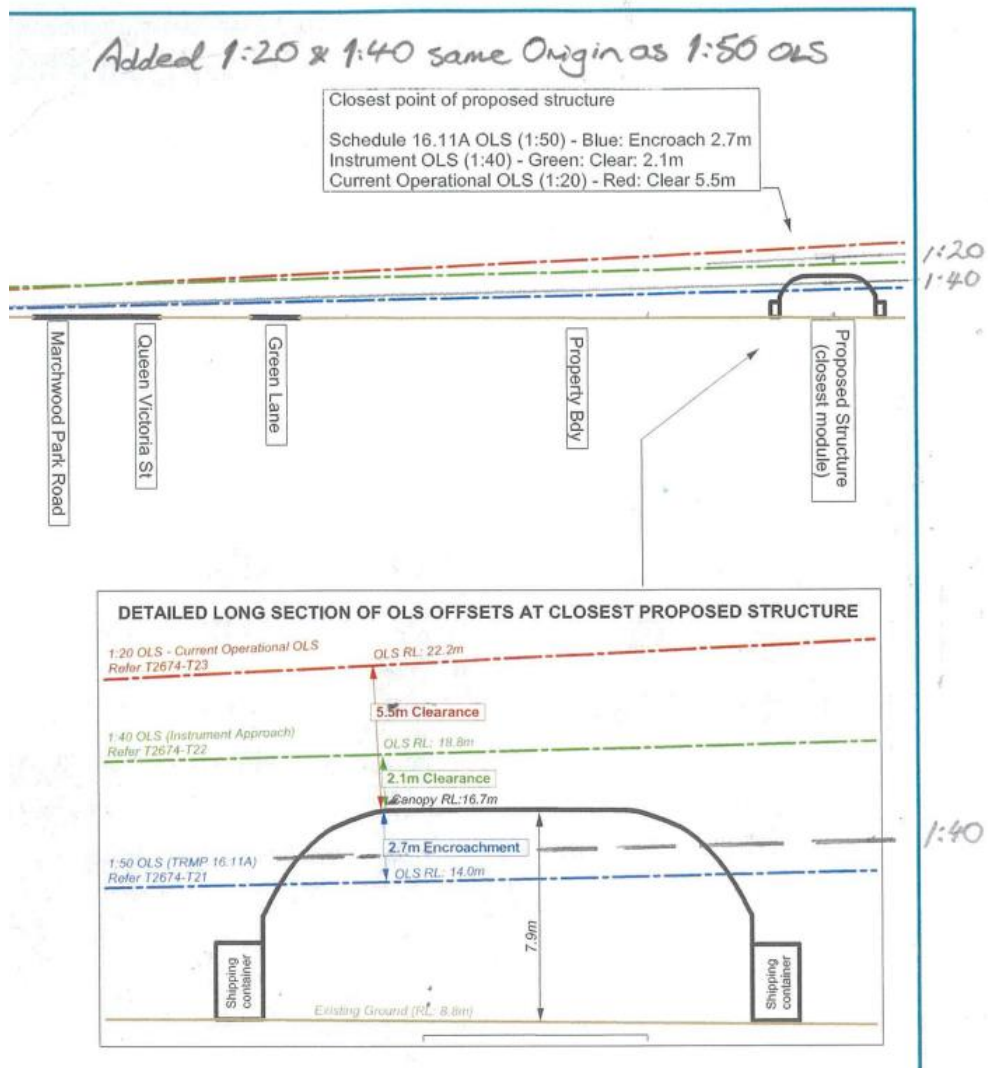
To illustrate what may be possible, the writer has added 1:20 and 1:40 slopes starting at the end of the runway (ie, the Inner Edge or "origin" of the current 1: 50 OLS) to the long section T2676-**T20v3** dated 2/9/2022 – see next page).

This sketch is intended to be indicative only and shows that the height of the closer of the proposed container shelters would intrude above the 1:40 slope. The intrusion would be 0.5m less if the 1:40 slope origin was to match the current operational 1:20 OLS, as per NewtonSurvey T2674 T23 Rev3 dated 06/09/2022. The 1:40 approach OLS fan with a 1:10 splay as shown on NewtonSurvey plan T2676 **T22 Sheet 3 Rev3** dated 06/09/202, would still cover all of the proposed container shelters, although it is much narrower than the 1:50 fan splay.

Finished homes including double storey units are to be parked under the OLS fan between 180 and 220m from the end of the runway. The double storey units are shown on the amended site plans as being 4.5m in height and may intrude into the 1:40 slope shown if they are stored on raised supports and when they are being lifted onto transport trailers or are mobile units. The 3-metre-high bunds proposed for the southwest corner of the site would be below (or under) both of the 1:40 OLS scenarios discussed above.

Regarding potential road closures, the applicant has pointed out that the definition of "environment" includes the reasonably foreseeable future environment (RFI Response Letter dated 25 March 2022, and email dated 13 February 2023). In summary, what is likely to form part of the future environment requires a 2-step inquiry to identify whether there are:

- legal impediments to modify the existing environment: and
- practical reasons why the change may not occur.



With reference to the statutory processes that apply for proposing to close a public road (even temporarily), and potential difficulties with removing any existing obstacles that have RMA existing use rights, the applicant concludes that such changes are “reasonably unlikely” to occur; or in other words, due to the uncertainties involved an environment without the existing obstacles to the 1:50 OLS including the road traffic is not reasonably foreseeable.

As already indicated above, and on the assumption that a 1:50 OLS is usually applicable for a longer runway (as per the Haines report) the writer accepts the points made by the applicant that the attainment and implementation of a useable 1:50 OLS is unlikely. However, the situation for a potential 1:40 OLS starting at the end of the runway or at the current Displaced Threshold may well be less onerous given much fewer existing obstacles would have to be removed, although it would still be dependent on being able to gain approval for road closures in some form to exclude the road traffic when required.

The applicant is correct that there have not been any signals from aerodrome management indicating that night-time and/or instrument approach flights are to be implemented at Motueka Aerodrome, even if that would be subject to gaining approval for road closures and addressing other obstacles within a 1:40 OLS originating at the end of the runway or the current 1:20 OLS. That is possibly because there have not previously been any similar resource consent applications to intrude above the approach OLS, and in particular not directly under the runway approach, so there has not been any pressure for the aerodrome management to act – such seeking to clear obstacles, or investing in lighting, for example. It is noted that the 1:50 OLS height controls were accepted in 2017 for the coolstore development across Queen Victoria Street from the northeast end of the runway, with that large building being positioned and designed to comply (see aerial photo on page 5).

While the Haines Report states that a 100-metre shift of the Displaced Threshold would be required thereby shortening the available runway, there is no assessment provided by the applicant of how that might affect use of the runway for night-time and/or instrument approach flights compared to being able to use the full runway length.

For this reason, I do not accept the applicant's arguments that a 1:40 OLS is unlikely to be implementable without shifting the Threshold by 100 metres along the runway primarily because of the need to get road closure approval. The aerodrome managers have not had to address that yet, so it is a key factor that has not been tested.

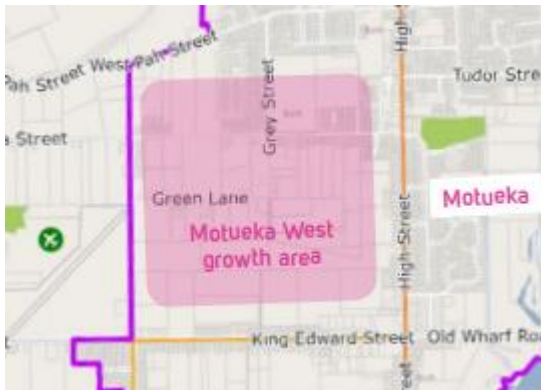
I am also mindful of the concerns raised by the aerodrome managers and users about locating an industrial manufacturing activity employing up to 60 people directly under the flight approach so close to the landing threshold. While the likelihood of an engine failure or other cause of an aircraft crash on approach is low, the negative consequences for human life could be significant.

Given the uncertainties involved, I cannot agree with the applicant's advisors that the proposal will have nil adverse effects on the future operations of Motueka aerodrome. Allowing the proposed activity would likely create another impediment or difficulty for the aerodrome to implement safe night-time or instrument approach flights in future.

For these reasons, I consider that the adverse effect on the aerodrome is likely to be more than minor. And for completeness, I cannot see any of the permitted activities in the rural 1 zone rules being comparable to the proposal in terms of considering a permitted baseline with regard to adverse effects on operation of the aerodrome.

(b) Potential adverse effects of using highly productive rural land for industrial purposes

The application site is zoned for rural production (ie, Rural 1 zoning), it is mapped as Land Use Capability Arable (*Multiple Use land, with few limitations*), and is mapped as Productive Land Classification A (1994). As such, it meets the definition of highly productive land in the National Policy Statement for Highly Productive Land (NPS-HPL) that took effect from 17 October 2022 and applies to any resource consent application being processed at that time.



By letter dated 13 February 2023, the applicant's legal adviser states that the NPS-HPL does not apply to this application because the site is within an area of land in West Motueka that is identified in Council's 10-year plan 2021-2023 for future urban development.

However, the 10-year plan referred to clearly states that the growth area boundaries shown "are for planning purposes and don't necessarily indicate the extent of future development".

Therefore, this writer considers that the definition of land "identified for future urban development" in Clause 1.3(1) of the NPS-HPL does not apply to the application site, because there is no detail identifying land areas in West Motueka suitable for commencing urban development over the next 10 years – other than the Deferred Residential and Deferred Industrial zones already in the TRMP (if the required infrastructure is to be delivered within the 10-year period). There is no presumption that the Rural 1 zoning of the application site will be changed within the next 10 years in favour of urban development. Therefore, it is considered that the NPS-HPL does apply to the application site.

Clause 3.9 of the NPS-HPL states that local authorities "must avoid the inappropriate use or development of highly productive land that is not land-based primary production" and lists some 13 possible exceptions – none of which apply to the proposed industrial activity.

Clause 3.10 of the NPS-HPL also provides for exemptions where land is subject to permanent or long-term constraints. Clause 3.10(4) expressly states that the size of a landholding is not of itself a determinant of such a constraint. In many respects the NPS-HPL reinforces the Objectives and Policies already in the TRMP for the Rural 1 zone, but with some important additions such as Clause 3.10(4) and also how economic viability should be considered.

The original application states (in 5.4) that the 1.371 ha site is “too small for any meaningful profitable productive activities”; and that the proposal would not further fragment the site and would not render the site unsuitable for future productive land uses – other than for the proposed shed (which has since been substituted by container shelters).

During pre-application consultation, Council’s Resource Scientist – Land & Soil, Mirka Langford, had commented that she did not have “*too many concerns*” with the proposal because on the small size of the site and assuming that any all-weather pads would be able to be removed if the site was to be considered for use for food production again.

These comments must now be considered in terms of the amended site layout plan, which indicates that much of the site will require some form, of all-weather surfacing; as well as the NPS-HPL provisions, which brings into question whether there is any long-term constraint that would make productive use of the site economically unviable. There are none evident.

While the applicant is understandably concerned that delays in processing their application (largely due to the aerodrome OLS issue) may have caused it to become subject to the NPS-HPL, as well as the TRMP provisions relevant to the Rural 1 zoning, there can be no presumption that the loss of availability of 1.1 ha of Class A land (excluding the existing house, sheds and curtilage) for rural productive uses would have been considered to be a minor adverse effect prior to the NPS-HPL taking effect.

(c) Potential surface water contamination of the wastewater discharge to the adjacent watercourse, and groundwater contamination

Proposal

The applicant is seeking consent to discharge treated domestic wastewater to land, where the average daily volume exceeds 2,000 litres per day. There are no reticulated connections available to the site and all servicing is required to be managed onsite. The existing dwelling has a wastewater disposal system, and it has been calculated that with the use of the dwelling for residential accommodation (occupancy of 2) and office facilities (staff of 4), the discharge will be approximately 600 litres per day and remains a permitted activity. When the proposed industrial activity is fully established with an anticipated maximum of 60 staff onsite, the volume of discharge will increase by 3,000 litres per day. This has been calculated based on 50l/day for each staff member. A new independent onsite wastewater system is proposed to cater for this new discharge.

The application includes a report by Gary Stevens Consulting which has recommendations for wastewater disposal (as well as stormwater disposal). For wastewater, a new land application system is proposed which will provide secondary treatment through an AES single pass sand filter. The discharge fields will be located close to the proposed shed with the final location confirmed through building consent for the detailed design of the system.

Assessment

It is considered that the actual and potential effects on the environment are less than minor for the following reasons:

1. The report from Gary Stevens Consultant Ltd details the design of the wastewater system to meet the applicants needs which has primary treatment via a 5,000 litre Alpha

Precast Septic Tank and secondary treatment via an Advanced Enviro-Septic (AES) single pass sand filter. The system has been designed in accordance with AS/NZS 1574:2012.

2. The assessment of the soils on-site has been made, with the soils identified as category 3 sandy loam above gravels. This soil type provides good options for the land application of domestic wastewater in terms of loading rates, and the ability of the soils to provide further treatment when the effluent leaves the disposal system.
3. The soil assessment above involved excavating to a depth of 2.5 metres (m), and groundwater was not encountered at this depth. Groundwater is therefore taken to be in excess of 1.9m depth, which provides for the required 0.6m of unsaturated soil beneath the land application if the maximum depth of the system is 1.3m. The treatment system proposed, and the depth of unsaturated soil provides for further treatment of the effluent such that the quality of groundwater is not compromised.
4. The Lot size is 1.3ha which provides adequate space for the Land Application Area (LAA) for two independent systems, while generously meeting setbacks with boundaries and bores in the vicinity.
5. There is one bore on the property (WWD3258) which is over 40m away from the proposed disposal field. Bores located on adjacent Lots are all over 70 metres distant from the proposed disposal field.
6. The AES single pass sand filter will require a Land Application Area (LAA) of 60m² (verified using the AES bed design calculator), and this area meets the required setbacks from adjacent properties and all waterbodies. The application has indicated a separate reserve LAA for the required 100% of the reserve land disposal field area and this area meets setback requirements from adjacent properties and all waterbodies. A reserve field is not required under the permitted activity conditions of Rule 36.1.2.4, however the reserve field in this instance is considered appropriate given the reasons for the consent, the loading on the system, and the use of the site.
7. The wastewater will be treated to a higher standard than required by TRMP Rule 36.1.2.4 (k). The effluent quality will be of a secondary standard (beneath the AES field) and is expected to be BOD < 30mg/l and suspended solids < 45mg/l). The secondary treatment through the AES bed is expected to achieve a faecal coliform reduction of 3.5Log. There will be further attenuation through the soil vadose layer under the AES bed such that it is considered that pathogens do not pose a contamination risk to groundwater.
8. Due to the flat topography of the site, it is not anticipated that the discharge will result in any slippage, subsidence or erosion within the site.
9. The use of the site will be such that vehicle and foot traffic will cross the LAA. As required by AS/NZS1547: 2012 5.5.3.7, such traffic shall be excluded from the LAA unless provided for in the design. The design report has allowed for this and provides specific traffic loading detail in drawing AES TL03. This includes appropriate surfacing, compaction, and stormwater management.

The design by Gary Stevens Consultant Ltd is considered to be in line with good practice and appropriate for the site soils, slope and expected loading, meeting AS/NZS 1547:2012 standards and demonstrates a disposal system that suitably mitigates any effects resulting from exceeding the permitted volume of effluent discharged. Given this, it is considered that the proposed activity to discharge effluent to land will have potential and actual effects that are less than minor.

Conclusion

Based on the foregoing appraisals, I conclude that the likely adverse effects of (1) the proposed activities on future aerodrome operations by creating more obstacles for a future 1:40 OLS, and (2) the risks associated with placing an industrial activity employing up to 60 people under the flight path; and also the adverse effect of the loss of availability of 1.1 ha of highly productive land, are more than minor.

Adverse effects on the environment of the proposed wastewater discharge are considered to be less than minor.

For completeness, it is also noted that any adverse effects on the environment of the proposed stormwater discharges should be no more than minor (ie, within the permitted activity baseline) subject to the disposal system achieving the necessary design capacity.

4. Special circumstances for public notice

Notes: (click ▶ to open)

- 'Special circumstances' are generally those that are unusual, although they may also include objectives and policies of plans or national environmental standards that give clear indications of expected environmental outcomes relevant to the proposed activity.
- If what is proposed is specifically envisaged by the plan, it cannot be described as out of the ordinary.
- The fact that some persons have concerns about a proposal does not of itself give rise to 'special circumstances', but it may be a contributing factor.

Ask yourself what are the particular circumstances that take this out of the ordinary and make public notification desirable?

No special circumstances identified. Special circumstances apply.

Special circumstances reasons / analysis

Although the conclusion in Section 3 is that adverse effects of the proposal are more than minor therefore requiring public notification, special circumstances are considered as well in case that conclusion is not accepted.

Given that the Motueka Aerodrome forms part of the transportation infrastructure of the District available for public use, it is considered that the implication of this proposal that could result in the potential for night-time and/or instrument approach flights being curtailed or made more difficult to implement in future, is a matter of public interest sufficient to justify public notification of the application.

A related matter is that it would be difficult to identify all persons with a legitimate interest in the future potential for flight operations at Motueka aerodrome, therefore limited notification is not an alternative processing pathway.

5. Affected persons

Assessment must be made in accordance with section 95E:

- may disregard an adverse effect of the activity on a person if a rule or NES permits an activity with that effect;
- must, if the activity is a controlled or restricted discretionary activity, disregard an adverse effect of the activity that does not relate to a matter for which a rule or NES restricts control/discretion;
- must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11 (Treaty Settlement Legislation).
- must disregard any effect on a person who has given written approval to the application.

If more than one statutory acknowledgement area below, type in the others in the reasons / analysis.

Statutory acknowledgment area (for s95E(2)(c))

No affected persons. Affected persons.

Consideration of affected persons is required for two reasons: firstly, if the conclusions earlier in this report indicating that the application requires public notification are not accepted, and secondly, if public notification is to proceed then Regulation 10 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003 requires that notice be served on “ every person who the consent authority decides is an affected person under section 95B of the Act in relation to the activity that is the subject of the application or review:”

Adjoining & Adjacent Landowners

As stated at the start of Section 3 above, there are three aspects of the proposed activities that warrant assessment in terms of potential adverse effects on adjoining or adjacent landowners, those being (d) potential flood diversion, (e) noise, and (f) rural amenity and character:

(d) Flood Diversion

The Envirolink report supplied on 25 February 2022 details the inundation and stormwater flows for the proposed development. Based on the proposed bunds that will be placed around the site for acoustic/screening purposes, this may result in the diversion of floodwaters. It is noted in the report (Page 6) that the proposed fence may also cause some diversion of overland flows, hence the need for the water damming or diversion consent (as discussed in Section 2 of this report).

The following conditions of consent are recommended in the Envirolink report:

- Maximum 15m long bunds.
- Minimum 3m gap between bunds.
- Minimum of 50% of the fence has a gap of 100mm from the base of the fence to ground level, or the entire fence has a 50mm gap from the base of the fence to ground level.

The Supplementary Planning Report considers that the bunds will meet the permitted activity rule conditions of TRMP Chapter 36.4. That assessment is not accepted, as the bund structure may divert floodwaters and the mitigation measures noted above (proposed conditions by Envirolink) are required so that there are no material flooding effects on adjacent properties. The retention of these features will require conditions in the consent to maintain the bunds and the ability for flood waters to pass unimpeded through the gaps.

Council’s Senior Resource Scientist – hazards, Glenn Stevens, has reviewed the Envirolink report and provided the following appraisal:

The flood modelling undertaken by Envirolink predicts small increases in flood depths at neighbouring properties to the west (up to 5cm at the boundary and 2cm at the house). These are very modest increases to flood depths and are within the expected error of the modelling. The flood modelling is underpinned by the LiDAR derived DEM which has a vertical accuracy of +/- 5cm. Based on Council’s wider flood plain modelling the presence of the bunds will not affect the onset of flooding or the frequency of flooding at the applicants and neighbouring properties.

I note that the purpose of the bunds [is] to provide an acoustic barrier and not to protect the property from flood hazards. The greater the number of gaps in the bunds and the widths of these gaps the less they will impact flood flows, but at the cost of reducing the performance of the acoustic barrier. Should consent be granted, some consideration should be given on how to ensure the required gaps in the bunds are maintained and that they are not reduced over time to improve the acoustic performance of the bund...

The predicted increase in flood depths is small and likely less than minor provided the gaps between the bunds remain free from obstructions. However, if the application is to be notified (as a result of the other aspects of the application) determining if the modest flood depth increases are less than minor becomes somewhat of a moot point as the neighbours will have an opportunity to comment on this via the submission process. One advantage of this is that the neighbours view

on the level of acoustic screening they desire verses flood impacts that they are willing to tolerate can be canvased.

(e) Noise

The noise assessment made by Marshall Day Acoustics (MDA) includes the current ambient and background noise environment. In that context, the predicted noise emissions from the proposed industrial activity were assessed in terms of noise levels that would be received at the notional boundaries of adjoining or adjacent properties on the east side of Queen Victoria Street (Nos. 43-65 odd Nos only) and on Green Lane (Nos. 44, 45 and 47). Key points from the MDA report are:

[6.1] As established in Section 5.0 of this report, the noise from the proposed activities is predicted to comply the 55 dB LAeq established guideline noise limits for Stage 1 and Stage 2.

[6.1] The existing noise environment provides a baseline for assessing noise effects. The effects can be assessed by quantifying the predicted noise levels from the proposed activity that surrounding residents would experience against the existing background noise level. The change in the noise environment can then be interpreted in relation to the subjective response of people and possible annoyance... ..

[6.1.1] The existing noise environment for the closest receivers is to a large extent, controlled by the aerodrome operations. The existing environment is determined to be non-pristine, with regular aircraft, road and light industrial activities contributing to the overall noise level... ..

[page 15] Generally, as a guide, we consider the introduction of a noise source to be reasonable where noise levels from a proposed activity are no greater than 10 dB above the existing background noise level. However, this is not the only consideration when forming an opinion on whether the noise level generated by an activity is reasonable.

During weekdays, the noise level rating is generally within 10 dB of the background noise level (except for one assessment location where 11 dB is predicted). On Saturdays, the rating level is up to 14 dB above the background.

Although 14 dB exceeds this 10 dB guide, an exceedance of this magnitude often occurs in environments where there is a low background noise level, such is the case at this location. The absolute value in terms of the level of noise generated by an activity also needs to be considered. In our opinion, because the noise rating level of the activity noise is within the established guideline noise limit, the noise generated by the proposed activity remains reasonable... ..

We have been informed that under the TRMP rule 17.5.2.2 (b) a home occupation on this site would be permitted as of right, subject to compliance with the permitted activity rules. Activities occurring within a home occupation site, such as a workshop, which could include panel beating, vehicle repair or for instance woodworking or joinery, is permitted under this rule and can lawfully produce up to 55 dB LAeq measured at the notional boundary of a residential building on a neighbouring property during working hours.*

The types of noise produced by those particular home occupations would be comparable in character to the noise generated by the proposed activity. Based on this and our observation that with the proposed mitigation the current proposal would comply with the permitted activity noise limits, we consider that this rule would permit an activity with comparable noise effects.

**This advice from the applicant's legal adviser, which is also stated in the Supplementary Planning Report and the cover letter to the Further Information Response (dated 15 March 2022), regarding the permitted baseline for noise in the Rural 1 zone, compares a home occupation with an industrial activity employing up to 60 people to manufacture up to 18 homes simultaneously.*

Further key points from the MDA report are: *[6.3] In our opinion, when considering the existing noise environment and the guideline noise limit established from the TRMP, we consider the activity noise generated to be reasonable, despite the activity noise being audible at the closest assessment locations between aircraft take offs and landings.*

[9.0] Conclusion

The proposed activity is predicted to comply with our established guideline noise limits for during Stage 1 & 2 operations of the manufacturing facility.

Our opinion is that the noise effects of the mitigated operations, when compared with the noise environment in the area, are reasonable. This is despite the activity noise being distinguishable at times, due to the character of the sound and the variation in the ambient noise environment.

The predicted noise level due to the proposed activities are less than or equal to those that would occur as a result of a permitted activity compliant with the noise rules of the 55 dB LAeq (15min) TRMP.

We further note that the applicant has developed mitigation strategies to reduce noise levels. In our opinion, these mitigation measures satisfy the Resource Management Act requirement to adopt the BPO to ensure noise levels do not exceed a reasonable level. To ensure that activity noise emissions are reasonable, we recommend that noise limits of the TRMP are adopted as the noise limits for the proposed activity.

The noise report recommends use of a noise management plan, and conditions of consent.

Council's Team Leader – Compliance Response Noise and Principal Environmental Health specialist, Daniel Winter (who holds a Post-Graduate Diploma in Acoustics and Noise Control), has reviewed the MDA noise assessment and provided the following comment:

I agree with MDA that there are no relevant noise rules for a discretionary activity within the TRMP, where the activity occurs within sites zoned Rural 1. I also agree with applying a +5 dB penalty for sounds which have 'special audible characteristics' (SAC).

MDA consider the level of activity noise to be reasonable when compared to the existing background and ambient noise levels. On Saturdays, the predicted noise rating level is up to 14 dB above the background, which is a significant increase. The proposed activity will be clearly audible between aircraft taking off and landing. We will need to further consider the noise effect on Saturdays. One option to consider is a lower noised limit on 50 dB LAeq for Saturday operations.

MDA show that the background noise is higher during the week and I agree with MDA that a noise limit of 55 dB LAeq is reasonable for the Monday – Friday operations between the hours of 8.00am to 4:30pm.

... Although NMPs are important and valuable tools, the assessment of noise effects (including mitigation required) should not be deferred to a management plan. I recommend that we establish at the consenting stage what mitigation is required to ensure the noise from the proposed operation is reasonable.

Section 7.0 outlines recommendations for a noise management plan and the first bullet point refers to noise mitigation including barriers. If acoustic barriers have been assumed in the MDA assessment then the requirement for barriers should form a condition of consent.

Page 5 of the MDA report states that: A combination of shipping containers and plywood fencing around the proposed manufacturing area would provide mitigation to surrounding noise sensitive receivers during Stage 1 & 2 operations. To prevent flooding, the plywood fencing will incorporate a mass loaded vinyl section to the lower portion of the fencing to allow stormwater flow. Figure 2 sets out the proposed container and plywood fencing locations. The barrier indicated on the eastern boundary could be the combination of shipping containers and plywood fencing, as shown to the west of the manufacture area.

Figure 2 shows where the 2.4m and 3.6m barriers will be installed. These details are too important to be deferred to a management plan. I recommend that the requirement and design of acoustic barriers should form a condition of consent.

Has there been any consideration of acoustic fence along the western boundary? Perhaps this is not deemed necessary with the provision of shipping containers and barriers within the site.

Manufacturing hours are proposed as 8.00am to 4:30pm and 8.00am and 3.00pm Saturdays. If

consent is granted, I recommend that these hours form a condition of consent. The site can still be used outside of these hours for quiet activities but not for manufacturing.

The draft conditions provided by MDA look good. I recommend two additional conditions for noise barriers and operational times, as discussed above.

These assessments are based on the Rural 1 Zone noise standard being applicable to the proposed industrial activity, partly by comparing it to a permitted home occupation. Whether this is a reasonable approach to determining whether there will be adverse effects on the adjoining neighbours is moot, for weekdays as well as Saturdays. Contrary to the tenor of points made in the cover letter dated 15 March 2022 (paragraphs 6-17) there is no presumption in the TRMP provisions that complying with the permitted activity standards means that adverse effects of receiving this additional noise are nil or less than minor. The proposed mitigation measures (bunds and fencing) may be adequate, however is considered that there is still uncertainty as to whether the noise effects on the adjoining neighbours will be less than minor.

(f) Rural Character and Amenity

The original application (5.3) states that *considering the character of the surrounding environment, the nature of the activity and the mitigating bunding and landscaping the activity is not considered to have a more than minor effect on the amenity values and rural character of the environment.*

While acknowledging the mixed land uses in the locality, this proposed industrial activity including will be incremental change from rural uses and taking account of the scale of the proposal with up to 60 employees and the bunding around the site boundaries, is considered likely to have some adverse effect on the rural amenity of the area for the neighbours.

Conclusion

Having regard to all of the above matters, it is considered likely that the proposal will have at least minor adverse effects on the adjoining landowners and occupiers on the east side of Queen Victoria Street (Nos. 43-65 odd Nos only) and on Green Lane (Nos. 44, 45 and 47).

Aerodrome Owner/Manager and Users

For the reasons discussed in Section 3 of this report, it is considered that the owner/manager and users of Motueka Aerodrome are affected persons.

Statutory acknowledgment areas and Maori Cultural Values

The application site is not within or adjacent to a Statutory Acknowledgement Area recognised under Treaty Settlement legislation. Nor are there any known recorded archaeological sites on or close to the application site. No earthworks are proposed - the earth bunds proposed for around the periphery of the site will be built as structures with minimal land disturbance. Nevertheless, Council forwarded a notice of the application iwi resource management representatives. No response was received.

6. Special circumstances for limited notification – complete only if applicable

Notes: (click ▶ to open / hide)

- A person otherwise not considered adversely affected specifically excludes those weren't considered adversely affected in the assessment above.
- While there is no specific case law as to special circumstances that warrant notification to a person otherwise not considered adversely affected, consider what are the particular circumstances that are unusual or out of the ordinary that make it desirable for a person to have to be notified (for instance, if a rule precluded limited notification; or there may be a special interest group / association that has a 'charter' re some value / issue engaged.
- In that remember the context that the purpose of public participation is to assist in decision-making that better achieves the sustainable management of the purpose of the Act. For instance, which circumstances are 'special' will be those which make notification desirable, despite the general provisions excluding the need for notification.



No special circumstances identified.

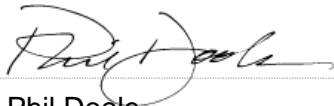


Special circumstances apply.

7. Recommendation

It is recommended that this application be:

- Publicly notified** because the effects on the environment will be more than minor for the reasons in Section 3.
- Publicly notified** because there are special circumstances as identified in Section 4.
- Limited notified**
- Processed on a **non-notified** basis for the reasons identified in this report.

Recommendation by  Date: 15-03-2023
Name: Phil Doole
Position: Principal Planner- Resource Consents

Recommendation by  Date: 15-03-2023
Name: Brigid Graney
Position: Senior Consent Planner – Natural Resources

8. Section 95 decision

Recommendation accepted under delegated authority of the Tasman District Council by:

 Date: 13-04-2023
Katrina Lee
Resource Consents Manager

Appendix A – 8 Step Notification Decision Process

Complete steps 1-8.

If public or limited notification is required, record full reasons in the relevant sections of your report.

Public notification decision making flowchart		
Step 1: Mandatory public notification	<ul style="list-style-type: none"> Has the applicant requested public notification? Has the applicant failed/refused to supply further information (s95C)? Is the application made jointly with an application to exchange recreation reserve land under s15AA of the Reserves Act 1971? 	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes → must publicly notify
Step 2: Public notification precluded in certain circumstances	<ul style="list-style-type: none"> Does a relevant plan or NES rule prevent public notification? Is the application for: <ul style="list-style-type: none"> a controlled activity? a 'boundary activity' that is a restricted discretionary, discretionary or non-complying activity? 	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes → go to step 4: special circumstances (no step 3)
Step 3: Public notification required in certain circumstances	<ul style="list-style-type: none"> Will the activity have, or be likely to have, adverse effects on the environment that are more than minor? Does a relevant plan or NES rule require public notification? 	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes → must publicly notify
Step 4: Public notification required in special circumstances	<ul style="list-style-type: none"> Do special circumstances exist that call for public notification? 	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes → must publicly notify
Limited notification decision making flowchart		
Step 5: Mandatory limited notification to certain groups and persons	<ul style="list-style-type: none"> Are there affected protected customary rights groups (s95F)? Are there affected customary marine title groups (applications for an 'accommodated activity')? (s95G) Is the activity on, adjacent to, or may affect land that is the subject of a statutory acknowledgement made per an Act specified in Schedule 11 of the Act; and the person to whom the statutory acknowledgement is made is affected under s95E? 	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes → must limited notify
Step 6: Limited notification precluded in certain circumstances	<ul style="list-style-type: none"> Does a relevant plan or NES rule prevent limited notification? Is the application for a controlled activity that requires consent under a district plan (other than a subdivision)? 	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes → go to step 8: special circumstances (no step 7)
Step 7: Limited notification required to certain other affected persons	<ul style="list-style-type: none"> Are any of the following eligible persons 'affected' under s95E? <ul style="list-style-type: none"> For boundary activities – an owner of an allotment with an infringed boundary? For other activities, will there be minor or more than minor adverse effects on any 'affected persons'? 	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes → must limited notify
Step 8: Limited notification required in special circumstances	<ul style="list-style-type: none"> Do special circumstances exist that warrant notification to any persons not already determined to be eligible for limited notification? (excludes persons assessed under s95E as not being affected) 	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes → must limited notify