



IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of two applications under s88 of the Resource Management Act 1991 by Agright New Zealand OPC01 Limited to undertake land-use consents to establish, operate and maintain two chicken broiler farms and ancillary activities at 780 and 874 Wani Road, Netherton.

Separate land use consents are being sought for each chicken broiler farm to enable the farms to operate separately, consent references:

- LUSE-202.2024.00001922.001
– North Broiler Farm – 780 Wani Road, Netherton
- LUSE-202.2024.00001922.002
– South Broiler Farm – 874 Wani Road, Netherton

HAURAKI DISTRICT COUNCIL HEARINGS AND JUDICIAL COMMITTEE DECISION REPORT

1.0 The Application

Mitchell Daysh (the Agent), on behalf of Agright New Zealand OPC01 Limited (the Applicant) has applied to the Hauraki District Council (HDC) for land use consents to establish, operate and maintain two, six-shed, chicken broiler farms on two working dairy farms at 780 and 874 Wani Road, Netherton.

The chicken broiler farm proposed at 780 Wani Road will be referred to hereon as the North Broiler Farm and the chicken broiler farm proposed at 874 Wani Road will be referred to hereon as the South Broiler Farm.

The Applicant sought separate land use consent applications for each chicken broiler farm to enable the two farms to operate independently. The two land use consent applications have been processed by HDC as a bundled consent.

The applications trigger Discretionary land use consents under the Hauraki District Plan (HDP) for the establishment and operation of factory farming and associated buildings compliant with the standards for non-domestic effluent disposal, to undertake earthworks exceeding the allowable limits, on-site storage and use of LPG fuel tanks, and for the construction and use of vehicle crossings to each farm infringing the minimum setback requirements between vehicle crossings.

The Applicant has concurrently sought regional consents from the Waikato Regional Council (WRC), which are being processed concurrently with the bundled land use consent application.

2.0 Limited Notification

The land use consent applications were limited notified to 40 surrounding landowners and occupiers on the 10th February 2025 to the 12th March 2025. Due to the WRC and HDC consent applications being processed concurrently, joint notification of the regional and district consent applications to affected persons occurred.

17 submissions were received, 15 of which were from those identified as affected persons to the application. All submissions were in opposition to the proposal. No additional submissions were received following the close of the notification period.

3.0 The Hearing

Paul Milner and Stephen Croymans were appointed by HDC as independent commissioners to hear and decide on the district land use consent applications (referred to hereon as the 'HDC Committee'). WRC appointed Michael Durand as an independent commissioner to hear and decide on the regional consent applications (referred to hereon as 'WRC Commissioner').

A joint hearing on the regional and district consent applications was held in the HDC Council Chambers, William Street, Paeroa, on the 13th May 2025 commencing at 10:00am. The hearing was adjourned to

enable the HDC Committee and WRC Commissioner to undertake a site visit and for the Applicant to provide a written right of reply.

The decisions of each council are being made independently, and this document is the record of the hearing and decision on the district land use consent applications to the HDC only, referenced as LUSE-202.2024.00001922.001 and LUSE-202.2024.00001922.002.

4.0 Evaluation of the Proposal

4.1 Statutory Provisions Considered

In considering the application, the HDC Committee has had regard to the matters set out in Sections 104 and 104B of the Resource Management Act 1991 (the Act). Pursuant to Section 104(1) of the Act, the HDC Committee has had regard to the following matters:

- a) Part 2 (Purpose and Principles) of the Act;
- b) Any actual or potential effects on the environment of allowing the activity;
- c) The relevant provisions of the Hauraki Section of the Operative Hauraki District Plan (2014), Operative Waikato Regional Policy Statement, Waikato Regional Plan and Hauraki Gulf Marine Park Act; and
- d) Other Matters.

4.2 Principal Issues in Contention

The principal issues in contention raised during the hearing were:

- The actual and potential effects of the proposed chicken broiler farm operations;
- The implications of *Otway Oasis Society Inc v Waikato Regional Council [2020] NZEnvC 169 (Otway)* in the consideration of the application;
- Whether the operations of the two chicken broiler farms would unduly constrain the ability for future permitted dwellings to be established on surrounding properties;
- Whether the loss of property values resulting from the chicken broiler farm operations is a relevant consideration;
- The perceived lack of consultation undertaken by the Applicant prior to lodging the consent applications;
- Whether Bert's Berry Farm forms part of the 'existing environment'; and

- Whether the meteorological data used for technical assessments can be relied upon in determining the adverse effects of the proposal.

4.3 Summary of Evidence Heard

- Summary of Evidence Presented by Applicant

Mr Minhinnick (legal), Mr Curtis (air quality) and Mr Jackson (planning) presented a summary of their evidence, and Mr Bryant (Applicant representative) provided corporate evidence on behalf of the Applicant.

Mr Minhinnick - Legal

Mr Minhinnick spoke to areas of outstanding disagreement between air quality experts, specifically in terms of the appropriate benchmark for considering odour effects. Mr Minhinnick asserted the Applicant's opinion that the 5 Odour Unit (OU) contour is appropriate as the receiving environment had low (or at worst moderate) sensitivity due to its rural location. In contrast, Ms Freeman (WRC Air Quality Expert) considers 2 OU contour appropriate benchmark on the basis that the receiving environment is of "high sensitivity".

Mr Minhinnick outlined that it was the Applicant's opinion that the odour effects of the chicken broiler farm operations were acceptable, given the level of conservatism incorporated into the odour modelling completed by Mr Curtis and the Applicant's experience with their other operational chicken broiler farms.

Mr Curtis – Air Quality

Mr Curtis explained the conservative nature of the odour modelling undertaken and summarised areas of agreement and disagreement between air quality experts.

Mr Curtis discussed that the odour sources from the chicken broiler operations related to the chickens themselves, the manure (excretion), and the associated ammonia generation which increases over time during any one batch period.

Mr Curtis was of the opinion that his conservative assessment of odour demonstrated that there are no air quality related matters preventing the granting of the consent, subject to appropriate conditions being imposed.

Mr Curtis acknowledged agreement between air quality experts that the odour effects on surrounding properties will be of an acceptable level, that the conservativity of his modelling accounted for any uncertainty around actual off-site odour effects, and that there was no longer a risk of adverse effects from odour (whether chronic or acute) occurring at the two residences located between the proposed broiler farms, at 832 Wani Road and 479 Pukahu Road.

Mr Curtis outlined that there was outstanding disagreement between air quality experts in relation to what is the appropriate modelling assessment criteria. Mr Curtis asserted his position that the 5 OU criteria is appropriate given the rural environment, the rural activity of chicken farming, and the 5 OU criteria being, in his experience, a consistent approach used for other chicken broiler farms throughout New Zealand.

Mr Jackson - Planning

Mr Jackson summarised the site description, proposal and reasons for consent, noting that the Applicant had recently amended the original proposal by increasing the height of all chicken shed roof stacks from 5.5m to 6m above ground level to further minimise odour impacts. Mr Jackson also noted that the two chicken broiler farms were near identical to the Applicant's operational Wardville farm site. Mr Jackson noted that the Wardville farm site is situated in a very similar flat, rural setting and operates to a high level of compliance with consent conditions and with no associated odour issues.

In terms of environmental effects, Mr Jackson noted that:

In my view, the primary resource management issue in this case is whether the odour emissions from the chicken farms will be acceptable. In this respect, I note that, notwithstanding some residual differences in opinion regarding some technical and interpretive matters, Ms Freeman and Mr Curtis both agree that adverse odour effects will be less than minor for any sensitive receptors outside the Applicant's site boundary and that this conclusion applies to both existing dwellings and any future neighbouring dwellings that may be established as of right.¹

Overall, Mr Jackson agreed with the conclusions of Ms Freeman and Mr Curtis in regard to odour effects, and considered all other actual

¹ Paragraph 2.11 of Mr Jackson's summary statement of evidence dated 13 May 2025

and potential adverse environmental effects associated with the proposal to be acceptable.

In terms of the relevant statutory planning provisions, Mr Jackson noted initial disagreement with Ms Andrews' conclusion that the proposal was not consistent with the relevant odour amenity planning provisions of the HDP, but that there was now agreement as Ms Andrews had confirmed in her supplementary statement of evidence that that she now considers the proposal to be consistent with relevant HDP provisions for odour amenity.

In regard to the planning matters raised in submissions, Mr Jackson outlined that:

... in relation to some submitters expressing concerns that the proposal will adversely affect their plans to build new dwellings or expand their businesses on their properties, I note that the land being referenced by these submitters is either sufficiently setback from the chicken farms that odour will be of no concern, and/or is land that does not meet the Otway test on the basis that the submitter does not have permitted rights to develop.

Overall, through a combination of the project's design and operation, and through compliance with the proposed conditions of consent, I consider that the range of concerns raised by submitters will be avoided, remedied or mitigated to an appropriate extent through the conditions of consent and that any residual impact on them will be acceptable in planning terms."

Mr Jackson made specific mention of the planning related matters raised by Ms Freeman in her supplementary statement, in particular, her opinion that the location of future building platforms on adjacent properties may be constrained by the chicken broiler farm operations, and how this would be controlled in future.

Mr Jackson noted that the presence of the chicken farms would not themselves constrain the future development of surrounding properties, however, the risk of any future dwelling residents experiencing odour will, generally, increase the closer they are to the chicken farm. Mr Jackson was of the opinion that the chicken broiler farm operations would not constrain future permitted or non-permitted building platforms and that there is no need for any additional controls to manage this matter.

In terms of the HDC recommended consent conditions and matters on conditions raised by Ms Andrews in her supplementary statement, Mr Jackson advised that the Applicant is agreeable to undertaking the landscape mitigation planting at both chicken broiler farm sites no later than 6 months following the granting of consent, notwithstanding that flexibility is recommended should circumstances arise such that this timeframe is not practicable.

Overall, Mr Jackson considered that the consents should be granted, subject to appropriate conditions.

Mr Bryant – Applicant

Mr Bryant provided background around Agright and their operational broiler farms within New Zealand and Australia, the site acquisition process and contributing factors for why the two operational dairy farm sites are proposed for use as chicken broiler farms for the supply of chicken meat to the nearby Inghams Plant in Waitoa.

Agright own nine broiler farms across New Zealand and Australia, with no odour-related complaints having been received in relation to these operational farms. Mr Bryant asserted that Agright undertake proactive compliance monitoring of their broiler farm operations, with online monitoring systems in place to monitor conditions within individual broiler sheds.

- Summary of Evidence Presented by Submitters

No submitters chose to pre-circulate evidence, and five submitters chose to speak at the hearing. A summary of the matters presented by the submitters is provided below.

Mr Zwetsloot and Ms Van Zaal – 203 Awaiti West Road

Mr Zwetsloot and Ms Van Zaal spoke to their submission in opposition to the application due to concerns in relation to their land at 203 Awaiti West Road and Berts Berry Farm which operates on the land. The concerns related to the impacts that the chicken broiler farms could have on the production of strawberries from dust and particle discharges over the application site boundary.

Mr Brewster – 1086 Awaiti Canal Road

Mr Brewster spoke on behalf of Little River Farms Limited in relation to the land at 1086 Awaiti Canal Road. Mr Brewster reiterated his position that the applications should be declined.

Mr Brewster raised concerns with the meteorological data of other operational chicken broiler farms used to inform the air quality assessment, as he considered these farms did not have comparable meteorological conditions.

Mr Brewster disagreed with the Applicant's assessment of the receiving environment having low sensitivity, given the land's proximity to Gerald Hill Reserve (home of short-tail bats and used by local school for recreational purposes) and Kopuatai Peat Dome. Mr Brewster considered that these factors meant that the receiving environment should be considered as having a higher sensitivity to smell.

Mr Brewster also raised concerns with the potential for increased risk of bird flu and the potential spread of disease and viruses from the chicken broiler farm operations. Mr Brewster sought that, should consents be granted, the outdoor areas should be enclosed to prevent mixing of broiler chickens and local avifauna.

Mr Brewster considered that there are alternative broiler farm locations within the application land which could lessen odour impacts on surrounding properties. Should consent be granted, Mr Brewster considered that it would be appropriate for a single broiler farm to be established and operated, to enable the actual odour impacts to be realised prior to the establishment of a second broiler farm.

Mr Morrison – 150 Awaiti West Road

Mr Morrison spoke on behalf of his submission in relation to the land at 150 Awaiti West Road. Mr Morrison's main concern was in relation to effects on air quality and the impacts that the chicken broiler farm operations would have on people and their livelihoods. Mr Morrison raised concerns with the Applicant's lack of communication and consultation with surrounding properties, and the uncertainty around ongoing compliance monitoring and the public availability of this information should the consents be granted.

Mr Firth – 417 and 431 Awaiti Road

Mr Firth spoke on behalf of Firth Dairylands Ltd in relation to the landholdings at 417 and 431 Awaiti Road. Mr Firth raised concerns with the impact that the chicken broiler farms would have on the ability to develop Lot 3 DPS 51240 (land parcel immediately adjoining the South Broiler Farm) to contain a dwelling or sell the land off due to on-site constraints which limit the availability of a building platform on the allotment outside of the 5 OU contour. Mr Firth raised the question as to whether the Applicant would consider moving the South

Broiler Farm further north to ensure that the odour contour is located entirely outside of Lot 3 DPS 51240.

Ms Helps – 305 Awaiti Road

Ms Helps spoke on behalf of her submission in relation to the land at 305 Awaiti Road and raised whether the compliance monitoring would be publicly available to submitters or concerned residents should the consents be granted.

- Summary of Evidence Presented by Waikato Regional Council – Air Quality, Bioaerosols and Planning

Ms Freeman – Air Quality

Ms Freeman spoke to her evidence, including providing an update to her previous assessment of odour effects considering the revised proposal and odour modelling contained in the Applicant's evidence, and comments and recommendations on consent conditions.

Mr Freeman formed the opinion that:

Based on the updated model results presented in the evidence of Andrew Curtis, and the discussion in his evidence about the degree of conservatism in model results, I have formed the conclusion that the potential for offensive or objectionable odour to the extent that causes an adverse effect is less than minor for any sensitive receptors outside the Applicant's site boundary.

The conclusion applies for existing dwellings in the local area, and also for currently vacant properties around the Applicant's site that have the potential for one or two additional dwellings to be built under the Hauraki District Plan permitted activity rules.²

Ms Freeman acknowledged that issues with the uncertainty of meteorological modelling and odour emission profiles were likely offset by the level of conservatism in the Applicant's odour modelling.

In terms of the sensitivity of the rural environment, Ms Freeman noted that:

- In her experience, residents at rural dwellings can be sensitive to odours, particularly odours not associated with the normal rural environment.

² Paragraphs 21 and 22 of Ms Freemans Statement of Evidence dated 6 May 2025

- The sensitivity of rural residents to odour would be lower than in a rural residential/countryside living area, or in a residential area.
- Two characteristics of rural background odours could help explain why rural residents can find odours from intensive farming practices to be offensive despite the presence of rural background odours:
 - Rural background odours predominantly occur on occasion and for short time periods, with low potential to cause long-term stress on residents; and
 - Farmers can, to some extent, control when and where odours occur and can minimise odour impacts on dwellings.
- Ms Freeman suggested that an odour concentration of between 2 OU and 5OU, for example 3 OU, is likely to be suitable.

Ms Freeman noted that her previous assessment outlined that there was a risk of chronic adverse effects from odour on the two dwellings located between the proposed broiler farms, at 832 Wani Road and 479 Pukahu Road. Ms Freeman outlined that, following the Applicant changing their application to increase the short stack height from 5.5 to 6m, there would be improved dispersion of odour and the risk of adverse effects from odour (either chronic or acute) occurring at these dwellings would be minor. For all other existing dwellings, Ms Freeman considered the risk of adverse effects from odour to be less than minor.

Ms Freeman provided commentary around the potential for adverse effects from odour on Lot 3 DPS 51240, which does not contain a dwelling but there is potential for a permitted dwelling to be constructed on the allotment. The South Broiler Farm is proposed approximately 175m from the shared boundary with this allotment. Ms Freeman outlined that the selection of a building platform on this allotment may be constrained by the presence of the South Broiler Farm, it would still be possible to construct a house on the land whilst maintaining sufficient separation from the chicken sheds to avoid adverse odour effects.

Dr Caldwell - Bioaerosols

Dr Caldwell spoke to his evidence and his opinion that the chicken broiler farm operations would have less than minor adverse effects on the environment and human health associated with airborne dust, bioaerosols, pesticides and ammonia discharges.

Mr Howard - Planning

Mr Howard spoke to his supplementary statement, advising that his prior recommendation to approve the regional consents remained valid after a review of the updated odour modelling and amended short stack height provided in the Applicant's evidence, and that the Applicant's recommended tracked changes to WRC's draft conditions are accepted.

Mr Howard outlined that his recommendation to grant the regional resource consents subject to conditions is substantially informed by the technical guidance provided by Ms Freeman and Dr Caldwell, concerning odour and particulate matters and bioaerosol dispersion.

Mr Howard's was satisfied that subject to suitable design and operational measures ensuring that the broiler shed ventilation runs optimally and utilising an appropriate short stack height, that adverse air discharge effects relating to odour, particular and bioaerosol dispersion should not be objectionable or offensive to surrounding properties and the wider environment.

- Summary of Evidence Presented by Hauraki District Council - Planning

Ms Andrews spoke to her supplementary statement prepared following the Applicant's evidence exchange which she summarised at the hearing. Ms Andrews provided an overview of her recommendation in her s42A Report to decline the district consents, set out her reasoning for changing her recommendation to recommend approval of the consents subject to conditions based on evidence of the Applicant and WRC, and responded to the Applicant's tracked changes to the recommended conditions of consent.

Ms Andrews outlined that her original recommendation to decline the consent was based on a conservative approach to the consideration of odour effects on two residences situated in between the two proposed broiler farms, 479 Pukahu Road and 832 Wani Road. In the absence of additional information and updated odour modelling that the Applicant was to provide after circulation of the s42A report, Ms Andrews considered that the broiler farm operations had the potential to give rise to more than minor adverse effects on the amenity values of these residences from odour emissions.

Ms Andrews was of the opinion that based on the Applicant's evidence received and in reliance of Ms Freeman's review of the Applicant's evidence, the odour effects of the broiler farm operations on the

properties at 479 Pukahu Road and 832 Wani Road will be at most minor, and that the associated effects on amenity values will be acceptable. On this basis, Ms Andrews considered there to be sufficient grounds to now recommend that the consents be approved, subject to conditions.

Ms Andrews was also in agreement with the evidence of Mr Jackson, that the proposal would be consistent with Section 5.1 Rural Zone, Objective 4, Policy (iii) of the Hauraki District Plan regarding odour amenity impacts.

Ms Andrews agreed with Mr Jackson's tracked changes to recommended condition 1 to require the development to proceed in general accordance with the plans and information provided with the application. Ms Andrews disagreed with Mr Jackson's tracked changes to the recommended conditions seeking great flexibility in the timeframes for implementing the landscape mitigation planting for both chicken broiler farms, as she was of the opinion that the six-month timeframe would be sufficient and acknowledging the importance that the planting has in managing landscape and visual effects of the proposed built development.

At the hearing, Ms Andrews was questioned by Commissioner Durrand on her consideration of, in relation to environmental result 5.1.3 of the HDP, what a 'detrimental impact' would be in the context of adverse effects on surrounding properties, and her opinion as to whether the proposal would have a detrimental impact on the amenity values of surrounding properties.

Section 5.1.3(2) of the HDP reads as follows:

5.1.3 ENVIRONMENTAL RESULTS

- (2) *It is recognised that in addition to traditional farming and forestry activities there is a need to accommodate a diverse range of opportunities for land use activities that enhance the social, economic and cultural wellbeing of the rural community. Some of these activities may have adverse effects that are incompatible with each other. Such activities should be managed to ensure the effects do not detrimentally impact on the physical and natural resources, other rural activities or the amenities of existing residents.*

Ms Andrews was of the opinion that a 'detrimental' impact would equate to a significant adverse effect on the amenity values of surrounding residents, and that overall, it was her opinion that odour from the chicken broiler farm operations would not have a detrimental impact on the amenity values of surrounding residents.

Ms Andrews and Ms van Steenberggen clarified the status of the Berts Berry Farm operations under the HDP. It was outlined that the berry farm operations fall within the HDP definition of Intensive Outdoor Farming:

Factory/Intensive Outdoor Farming

Means...

- e. vegetative matter (including mushrooms) grown in green houses and other buildings (except that crops grown with artificial crop protection consisting of support poles with open weave cloth do not constitute factory farming).*

This definition does not include the keeping or breeding of animals or any of the above activities where carried out on a domestic scale as an accessory use where it is clearly incidental to the use of the property as a whole. Except that, the keeping of no more than 4 pigs on a site and/or 25 head of poultry shall be deemed to be of a domestic scale.

Ms van Steenberggen clarified that the Berts Berry Farm operations met the above definition of intensive outdoor farming due to the growing of berries not being reliant on the soil resource (i.e. through use of hydroponics), noting that the definition of 'farming' under the HDP requires the growing of plants to occur in reliance on the productive capacity of the soil:

Farming

Means any type of farming (except where falling within the definition of Factory/Intensive Outdoor Farming, Forestry and Animal Feedlots) being a land based activity having as its primary purpose the commercial production of any animals, and/or vegetative matter, outdoors, relying primarily (but including the provision of supplementary feed from beyond the holding) on productive capacity of the soil, and includes:

- a. activities associated with land preparation, including cultivation, vegetation clearance, humping and hollowing, tracks, and races;
- b. the application of fertiliser;
- c. land drainage;
- d. the use of buildings for purposes accessory to farming;
- e. bee keeping;
- f. outdoor (extensive) pig farming; and
- g. stand-off feed pads, silage pits, offal holes, effluent ponds and fencing.

It was noted that the intensive outdoor farming activity requires a Discretionary resource consent in the Rural Zone pursuant to Section 5.1.4.4, Rule D16 of the HDP.

4.4 Provision of Legal Advice to the commissioners on the implications of *Otway Oasis Society Inc v Waikato Regional Council* [2020] NZEnvC 169 and any related cases

A hearing direction was issued on the 16th May 2025 requiring WRC to provide independent legal advice on the implications of *Otway* and any related cases, on the Applicant's legal submissions and the consideration of effects on potential future dwellings.

Legal advice prepared by Phil Lang Barrister Environmental Law dated 27 May 2025 was provided to the commissioners. Following receipt of the legal advice, the HDC Committee and WRC Commissioner's interim position was that:

6. In our view, the applicant has conflated the question of a person's intention to establish a dwelling with the question of a person's likelihood to establish a dwelling.

7. This may have occurred because, as we understand Otway, in that particular case a future dwelling was considered likely because a series of steps had been taken to establish it.

8. However, it seems false to conclude the current absence of such steps means a dwelling is unlikely to be established in the future. Rather, there may be other reasons a future dwelling is likely, irrespective of any current land owner's current or recent actions.

9. For these reasons, our interim position is to consider this application by examining whether and where it is likely (more likely than not) that any dwellings will be established on land around the application sites.

10. We will determine likeliness on the evidence before us. This will include evidence of any person's intention to establish a dwelling and other evidence before the hearing that speaks to likelihood, including (for example) the analysis presented in the Memorandum of Mr Rademeyer.³

4.5 Applicant's Right of Reply

Mr Minhinnick provided a brief verbal response to key matters raised at the hearing for the benefit of submitters, noting that a written right of reply would be forthcoming. In summary, Mr Minhinnick:

- Acknowledged the technical nature of the modelling associated with the assessment of odour effects and that consent conditions will not dictate odour contours but rather day-to-day chicken broiler farm operational matters to manage potential odour.
- Noted that the layers of conservatism outweigh potential inaccuracies with meteorological data and that the odour impacts of the chicken broiler operations will be acceptable.
- The Applicant would be agreeable to making the monitoring results publicly available.
- In terms of submitter concerns with a nearby chicken broiler farm operating along Fisher Road, this broiler farm uses older tunnel stacks which tend to generate more odour than broiler farms utilising short stacks.

Mr Minhinnick filed the Applicant's closing submissions on the 10th June 2025, noting that there is agreement between the Applicant, WRC and HDC that the environmental effects of the proposed chicken broiler farms are acceptable, and that there is acceptance from parties around recommended conditions of consent.

Mr Minhinnick outlined that there is agreement between both air quality specialists that the odour effects of the proposal are

³ Minute #2 of the Hearings Panel dated 5 June 2025

acceptable and that the odour modelling used to inform the assessments is conservative. It was noted that both parties agree that the design and consent conditions will manage odour impacts, including those on nearby sites with the potential to establish a permitted dwelling.

In terms of the receiving environment and the Hearing Panels interim position set out in Minute #2, Mr Minhinnick is in agreement *"that consideration is required as to whether or not it is likely (i.e. more likely than not) that any additional dwellings will be established. This is an evidentiary question"*.⁴

Mr Minhinnick asserts that the Applicant's evidence did not conflate the question of whether a person intends to establish a dwelling but focused on the need for evidence beyond the ability to subdivide for additional dwellings to form part of the receiving environment. Mr Minhinnick outlined that no tangible evidence had been provided to substantiate that any additional dwelling is likely to be established on submitters land. Specifically in relation to the Lot 3 DPS 51240, Mr Minhinnick asserted that there had been general statements about the possibility of an additional dwelling being established on this lot, but that these statements did not reach the threshold for being considered likely. It was noted that in relation to *Otway*, the surrounding landowner had completed a subdivision of the land and the landowners planned to sell off an additional dwelling to finance a new house.

Mr Minhinnick concluded that:

*In any event, the modelling undertaken by Mr Curtis considered the possibility of there being additional sensitive receptors within proximity to the Application site. Both Mr Curtis and Ms Freeman agree the effects on sensitive receptors (including Lot 3) are acceptable, and that the odour modelling is appropriately conservative. In practice, effects experienced by any future sensitive receiver on this lot would almost certainly be less than modelled (as set out in the evidence of Mr Curtis) which further supports the position that the effects of this proposal are acceptable.*⁵

Mr Minhinnick addressed the residual differences in opinion between Mr Curtis and Ms Freeman in relation to the appropriate threshold for the appropriateness of odour effects, and the associated consideration

⁴ Paragraph 2.3 of the Reply Submissions on behalf of Agright dated 10 June 2025

⁵ Paragraph 2.6 of the Reply Submissions on behalf of Agright dated 10 June 2025

of the sensitivity of the receiving environment. In relation to this matter, Mr Minhinnick outlined that:

2.8 Commissioner Durand asked a question regarding the extent to which Section 5.1.3(2) of the Hauraki District Plan (Environmental Results) may influence the policy direction within the Hauraki District Plan. Section 5.1.3(2) provides:

It is recognised that in addition to traditional farming and forestry activities there is a need to accommodate a diverse range of opportunities for land use activities that enhance the social, economic and cultural wellbeing of the rural community. Some of these activities may have adverse effects that are incompatible with each other. Such activities should be managed to ensure the effects do not detrimentally impact on the physical and natural resources, other rural activities or the amenities of existing residents.

2.9 Mr Jackson and Ms Andrews agree that Section 5.1.3(2) does not require a blanket avoidance of impacts on "rural amenity". As Ms Andrews outlined, "do not detrimentally impact on" does not equate to avoidance of effects – in essence, it is only engaged if the effects were more significant. To suggest Section 5.1.3.2 requires otherwise would involve a wholesale re-writing of the objectives and policies of the Hauraki District Plan.

2.10 As demonstrated in the evidence of Mr Bryant, Mr Jackson and Mr Curtis, Agright will have a range of measures in place to ensure the effects on rural amenity are appropriately managed, and any adverse odour effects because of the Application are acceptable (and as such, are not "detrimental").⁶

In terms of the approach to the management of odour effects, Mr Minhinnick outlines that separation distances are not the only mechanism used to avoid, remedy or mitigate adverse odour effects of the proposed chicken broiler farm operations. It was noted that the Applicant proposes several modern odour control measures, including chimney fan stacks for odour dispersion, latest computer controlled

⁶ Paragraphs 2.8 to 2.10 of Applicant's Reply Submissions on behalf of the Applicant dated 10 June 2025

shed management systems to minimise wet litter potential, having sheds in negative pressure, ensuring bedding and manure clearance occurs in sheds, and the preferred site management plan condition requiring the Applicant to further specify the measures Agright will implement to manage effects of the broiler farm operations. Mr Minhinnick also highlighted that a technology review condition has been proffered for the WRC consents to require the Applicant to ensure that the technology it has in place is up to date with modern practice.

In response to other issues raised by submitters at the hearing, Mr Minhinnick outlined that:

- Property values – impacts on property values are not a relevant consideration in determining whether a resource consent should be granted and suggested that reduced property values is measure of adverse effects on amenity values.
- Stockpiling of dead birds – all mortalities are stored in a freezer container and removed from the site weekly. Consent conditions are proposed for both broiler farms requiring daily inspections of all sheds and at minimum that all dead birds be removed and frozen-stored for no longer than 14 days prior to off-site removal.
- Request from owner of Lot 3 DPS 51240 to keep odour contours off property – Mr Curtis and Ms Freeman were comfortable that the odour effects on this property are less than minor.

Mr Minhinnick provided a revised set of recommended regional and district consent conditions. The changes sought by the Applicant to the HDC consent conditions are summarised below:

- North Broiler Farm/780 Wani Road:
 - Condition 1 be amended to require the consent to proceed in *general* accordance with the plans and information provided with the application. This change is to address minor design changes.
 - Condition 5 be amended and an advice note added to read:

5. *Unless otherwise authorised by the Council's Monitoring Officer, within six months of the granting of this consent, the consent holder must fully plant the row of trees along the northern site boundary between the eastern boundary and the western end of the poultry sheds as depicted on the Recommended Mitigation Planting Farm 1 Plan in the Landscape, Natural Character and Visual Impact Assessment referenced in condition 1 above.*

Advice Note: The Council's Monitoring Officer may extend the six month timeframe within this condition in the event there are circumstances beyond the consent holder's control, such as the unavailability of plants or if the six month timeframe falls outside the planting season (1 May to 31 August).

The purpose of this change is to address potential impracticalities associated with the six-month timeframe for implementation of the landscape mitigation planting.

- Conditions 9 and 10 be amended as follows:

9. *As a result of the operation of the meat chicken farm, either in isolation or cumulatively with operation of consent xxxxxx, the discharge must not result in odour that is objectionable at Sensitive Receptor Locations positioned beyond the site boundary and which existed at the date of the commencement of this consent, as generally identified in Schedule One.*
10. *As a result of the operation of the meat chicken farm, either in isolation or cumulatively with operation of consent xxxxxx, the discharge must not result in [odour / particulate matter] that is objectionable at Sensitive Receptor Locations positioned beyond the site boundary and which existed at the date of the commencement of this consent, as generally identified in Schedule One.*

Advice Note: For the purpose of conditions 9 and 10, Sensitive Receptor Locations are defined as locations where people are permanently living (including the curtilage areas of dwellings) or where people are permanently located for their work (excluding locations where activities such as driving, biking, reserve excursion or walking past the applicant's site, or transient farming activities such as fixing a fence or moving animals are occurring).

To purpose of the change is to require the consent holder to avoid objectionable odour/particulate matter at sensitive receivers existing at the date of the commencement of the consent, and accounting for potential cumulative odour/particulate matter discharges from the operation of the two chicken broiler farms.

- South Broiler Farm/874 Wani Road:
 - Condition 1 be amended to require the consent to proceed in *general* accordance with the plans and information provided with the application. This change is to address minor design changes.
 - Conditions 5 and 6 be amended to read:
 5. *Unless otherwise authorised by the Council's Monitoring Officer, within six months of the granting of this consent, the consent holder must fully plant the planting of a contiguous evergreen hedgerow capable of growing to 3m in height within 4 years along the roadside boundary, northern boundary between the road and western end of the poultry sheds, and the southern boundary between the road and the western end of the poultry shed as depicted on the Recommended Mitigation Planting Farm 2 Plan in the Landscape, Natural Character and Visual Impact Assessment referenced in condition 1 above.*
 6. *Unless otherwise authorised by the Council's Monitoring Officer, within six months of the granting of this consent, the consent holder*

must fully implement the planting of a cluster of Kahikatea specimen trees in the south-eastern corner of the site as depicted on the Recommended Mitigation Planting Farm 2 Plan in the Landscape, Natural Character and Visual Impact Assessment referenced in condition 1 above. 6.

Advice Note: The Council's Monitoring Officer may extend the six month timeframe within this condition in the event there are circumstances beyond the consent holder's control, such as the unavailability of plants or if the six month timeframe falls outside the planting season (1 May to 31 August).

The purpose of this change is to address potential impracticalities associated with the six-month timeframe for implementation of the landscape mitigation planting.

Mr Minhinnick also noted that several submitters requested greater transparency of ongoing odour monitoring of the chicken broiler farms, once established. To enhance transparency, the Applicant proposes WRC consent conditions requiring monitoring and compliance reports to be published online and that nearby residents be notified of their availability.

Overall, Mr Minhinnick concluded that *"WRC and HDC all agree that the effects of the Application are acceptable, and that the conditions of consent as proposed by the Applicant in evidence are appropriate. As such, the Application is deserving of consent".⁷*

⁷ Paragraph 5.1 of the Applicant's Reply Submissions of behalf of the Applicant dated 10 June 2025

4.6 Main Findings of Fact

The HDC Committee found that:

The actual and potential effects of the proposed chicken broiler farm operation

The HDC Committee consider that the actual and potential effects of the proposed chicken broiler farms can be avoided, remedied or mitigated appropriately.

In reaching this conclusion the HDC Committee accept the findings of the Applicant's air expert, whose conclusions were supported by the WRC experts in relation to odour and to airborne dust, bioaerosols, pesticides and ammonia discharges.

The HDC Committee accept that visual, landscape and rural character effects could be effectively mitigated by the screen plantings proposed, and retention of existing plantings, for each broiler farm. Further that noise and light spill would be below the HDP limits.

HDC's Development Engineer concurs with the Applicant's expert that any traffic safety and efficiency effects resulting from the construction and operational traffic will be less than minor, with conditions ensuring appropriately formed entrances in place before operations commence.

Expert evidence also confirmed that site servicing, flooding, earthworks, hazardous substance storage, reverse sensitivity, rural production, archaeological and cultural effects will not be more than minor.

The implications of *Otway Oasis Society Inc v Waikato Regional Council* [2020] NZEnvC 169 (*Otway*) in the consideration of the application

The implications of *Otway* in the consideration of the application were canvassed in the legal opinion obtained by WRC and Minute 2 of the Hearings Panel summarised in section 4.4 above. The HDC Committee's position on this matter remains unchanged at the time of deciding on these applications.

Whether the operations of the two chicken broiler farms would unduly constrain the ability for future permitted dwellings to be established on surrounding properties

Neighbouring property owners and occupiers will not be unduly impacted based upon odour calculations, specifically the 99.5% 5 OU contour which is almost entirely contained within the Applicant's land.

The 99.5% 2 OU contour extends across land to the south of the South Broiler Farm, within Lot 3 DPS 51240 where submitters Firth Dairylands Ltd identified plans to construct a dwelling on the land in future. The HDC Committee accepts the findings of the Applicant's air specialist, whose conclusions were supported by the WRC experts in relation to the odour effects being acceptable on current and future sensitive receptors located outside of the Applicant's site boundary.

The HDC Committee notes that the Applicant proposes date stamped conditions to manage odour and particulate matter emissions from the chicken broiler operations experienced by sensitive receptors existing at the time of the exercise of consents. The HDC Committee is not satisfied that this is appropriate in the context of the proposed chicken broiler farms as:

- The examples of date-stamped conditions suggested by the Applicant all relate to noise effects which can be easily measured and mitigated. Such measurements and associated mitigations are not available for the management of odour effects in the context of this activity, and therefore the HDC Committee considers that it is appropriate for the conditions to not be date-stamped.
- It is appropriate that the Applicant manages the chicken broiler farm operations to avoid objectionable odour and particulate matter emissions both on existing dwellings and dwellings that may be constructed on surrounding properties as a permitted activity under the HDP after the Applicant commences operation of the chicken broiler farms.
- The evidence provided by the Applicant's air expert, supported by WRC experts, demonstrates that the chicken broiler farms can operate without causing objectionable effects beyond the boundary, therefore the Applicant can comply with the conditions irrespective of the date stamping.

Whether the loss of property values resulting from the chicken broiler farm operations is a relevant consideration

The HDC Committee acknowledges the concerns raised by submitters in regard to the impacts that the proposal may have on their property values. Respectfully, the HDC Committee agree with Ms Andrews and Mr Minhinnick that the loss of property values is a secondary effect and therefore has not been considered in the HDC Committee's deliberations.

The perceived lack of consultation undertaken by the Applicant prior to lodging the consent applications

It became apparent to the HDC Committee during the hearing proceedings that many submitters had not been contacted during the

consultation undertaken by the Applicant prior to lodging the resource consent applications. We believe that this has led to a great deal of mistrust by the community which was articulated by submitters both in writing and verbally at the hearing. While the committee is satisfied that statutory requirements for notification have been met and note that there is no legal requirement for applicants to undertake consultation prior to lodging a consent application, this does not diminish the concerns that were raised by submitters.

As a “good neighbour”, the HDC Committee considers that the Applicant will need to work on rebuilding trust with the local community, and suggest that this could be achieved principally through improved, relevant and timely communication.

Whether Bert’s Berry Farm forms part of the ‘existing environment’

The HDC Committee agree with the findings of Ms Andrews and Ms van Steenberg that, at the time of considering the application, the Berts Berry Farm operations have not been lawfully established under the HDP and therefore this activity does not form part of the ‘existing environment’. Accordingly, the HDC Committee has given no weight to the consideration of adverse effects of the proposal on these operations.

Whether the meteorological data used for technical assessments can be relied upon in determining the adverse effects of the proposal

The HDC Committee has formed the opinion that the meteorological data used in the modelling of potential odour emissions was the best data available to all parties at the time of considering these applications and that this meteorological data can be reasonably be relied upon for making such calculations.

5.0 Conclusions

On balance, the HDC Committee has reached the conclusion that the proposed activity can proceed, and that any actual and potential adverse effects of the proposal can be appropriately managed through the imposition of conditions. The Rural Zone is the most appropriate location for this type of activity. The locality is very much what one would expect to see on the Hauraki Plains. The existing rural farming activities within the site’s vicinity are generally dairy farms, the effects of which are well understood by the community. The effects of proposed chicken broiler farms are less well known which has understandably led to much consternation. The evidence presented by suitably qualified experts gives the HDC Committee sufficient

comfort that the proposal may proceed and that the adverse effects of the proposal can be appropriately managed.

6.0 Decisions

That pursuant to Sections 104 and 104B of the Resource Management Act 1991, the Hearings and Judicial Committee of the Hauraki District Council **grant** consents to establish, operate and maintain two chicken broiler farms and ancillary activities at 780 and 874 Wani Road, Netherton, subject to the following conditions:

LUSE – 202.2024.00001922.001 – North Broiler Farm – 780 Wani Road, Netherton consent conditions:

General

1. That the development authorised by this consent proceeds in general accordance with the plans and information provided with the application, namely:
 - i. Assessment of Environmental Effects Report entitled "Agright New Zealand OPCO1 Limited – Proposed Chicken Broiler Farms – Resource Consent Applications and Assessment of Environmental Effects" prepared by Mitchell Daysh, dated June 2024;
 - ii. Farm Productivity Assessment for 780 Wani Road prepared by AgFirst and dated 30 April 2024;
 - iii. Archaeological Assessment entitled "Archaeological Impact Assessment for partial conversion of a dairy farm – 780 & 874 Wani Road to broiler chicken production facilities with associated infrastructure" prepared by Neville Ritchie and dated March 2024;
 - iv. Traffic Impact Assessment prepared by Maven Matamata and dated 7 May 2024;
 - v. Preliminary Site Investigation prepared by CSI – Contaminated Site Investigation and dated 23 July 2024;
 - vi. Air Quality Assessment prepared by PDP, Rev 2, and dated 30 May 2024;
 - vii. Assessment of Noise Effects prepared by Marshall Day Acoustics and dated 16 May 2024;
 - viii. Infrastructure Report prepared by Maven Matamata, Rev A and dated 7 May 2024;
 - ix. Draft Site Management Plan;
 - x. Hazardous Facility Screening Procedure Assessment;
 - xi. Site Plans prepared by Construction Cohort and dated 16 April 2024;

- xii. Engineering plans prepared by Maven Matamata dated April 2024, Rev A;
- xiii. Landscape, Natural Character and Visual Impact Assessment prepared by Mansergh Graham Landscape Architects and dated October 2024; and
- xiv. Response to s92 further information request and accompanying information provided to Council on 14 October 2024 and 12 November 2024.

The resource consent conditions below must prevail should any inconsistencies between the application documentation, management plan and the conditions occur.

- 2. Pursuant to section 125 of the RMA, this consent lapses 5 years after the date it is granted unless:
 - i. The consent is given effect to; or
 - ii. The Council extends the period after which the consent lapses.
- 3. The site must be operated under the commercial free-range farming model or barn raised farming model whereby the stocking rate must not exceed 18 birds per m².

Monitoring/Review

- 4. The consent holder must maintain records in sufficient detail to demonstrate compliance with the maximum bird stocking density stated in Condition 3 at any point in time and must provide those records to the Council's Monitoring Officer on request.

Annually, by no later than 31 January, the consent holder must submit to the Council's Monitoring Officer, a summary of the previous calendar year's stocking density data to demonstrate ongoing compliance with Condition 3.

Landscape Mitigation Planting

- 5. Within six months of the granting of this consent, the consent holder must fully plant the row of trees along the northern site boundary between the eastern boundary and the western end of the poultry sheds as depicted on the Recommended Mitigation Planting Farm 1 Plan in the Landscape, Natural Character and Visual Impact Assessment referenced in condition 1 above.
- 6. The planting as required through condition 5 above must be certified as being in general accordance with the Recommended Mitigation Planting Farm 1 Plan in the Landscape, Natural Character and Visual Impact Assessment referenced in condition 1 above by a suitably

qualified and independent person. The consent holder must submit the certificate to the Council's Monitoring Officer that the required planting has been fully implemented in a professional and workmanlike manner. The planting must be protected and maintained thereafter.

Retention of Shelter Belt Planting

7. The consent holder must retain the existing shelter belt planting along the eastern site boundary as shown on the Recommended Mitigation Planting Farm 1 Plan in the Landscape, Natural Character and Visual Impact Assessment referenced in condition 1 above.

Site Management Plan

8. By no later than two months prior to the first intake of birds at the rearing sheds, the Consent Holder must provide to the Council's Monitoring Officer, for certification, an updated Site Management Plan ("SMP") generally in accordance with the "DRAFT Site Management Plan" referenced in condition 1 above with reference to all of the matters outlined in sub-clauses (i) – (xiii) below.

The consent holder must provide the Council's Monitoring Officer with written notice of any subsequent revisions or amendments to the SMP within one week of any changes being made. As a minimum the SMP must be reviewed by the consent holder every 4 years.

The SMP must always document how compliance will be achieved with the conditions of this consent and the SMP must always include the following matters:

- i. Contact details and responsibilities of key personnel who are responsible for implementing the SMP;
- ii. General odour management and minimization procedures for the site's operation including load-out and washing;
- iii. Identification of potential sources of odour;
- iv. Measures available to avoid, remedy or mitigate adverse effects from these sources;
- v. Details of self-monitoring that will be carried out including details of odour monitoring;
- vi. Methods for ensuring familiarisation of all staff with consent conditions/contents of the SMP;
- vii. Protocols to regularly verify litter moisture content and the best practicable steps to be taken to comply with the conditions of this resource consent;
- viii. Protocols for management of wash-water and stormwater disposal systems;
- ix. Protocols for maintenance of ventilation systems;

- x. Protocols for managing the storage and removal of dead chickens;
- xi. The provision of contact details to neighbours for lodging complaints or feedback;
- xii. Procedures for dealing with odour complaints. These procedures shall be generally in accordance with the procedures outlined in the Ministry for the Environment Good Practice Guide for Assessing and Managing Odour; and
- xiii. Maintenance of the complaints record.

The consent holder must ensure that the chicken broiler farm is, at all times, operated in general accordance with the current version of the SMP. In the event of any conflict or inconsistency between the conditions of this consent and the provisions of the SMP, then the conditions of this consent must prevail.

Odour and dust emissions

9. As a result of the operation of the chicken broiler farm, either in isolation or cumulatively with operation of consent LUSE – 202.2024.00001922.002, the discharge must not result in odour that is objectionable at Sensitive Receptor Locations positioned beyond the site boundary.
10. As a result of the operation of the chicken broiler farm, either in isolation or cumulatively with operation of consent LUSE – 202.2024.00001922.002, the discharge must not result in particulate matter that is objectionable at Sensitive Receptor Locations positioned beyond the site boundary.

Advice Note: For the purpose of conditions 9 and 10, Sensitive Receptor Locations are defined as locations where people are permanently living (including the curtilage areas of dwellings) or where people are permanently located for their work (excluding locations where activities such as driving, biking, reserve excursion or walking past the applicant's site, or transient farming activities such as fixing a fence or moving animals are occurring).

Removal of chicken litter

11. Chicken litter must be removed from the sheds in a manner that achieves compliance with Conditions 8, 9 and 10. As a minimum this will include:
 - i. Sheds must be thoroughly cleaned at the end of each cycle so that no accumulation of dust or odorous materials occurs;

- ii. Litter must be removed off-site from the sheds at the end of each production cycle. Spent litter must not be reused during subsequent production cycles;
- iii. Litter cleared from the sheds must be removed from the site as soon as practicable; and
- iv. Used litter spilt outside the sheds during the clean-out operations must be removed on the same day that it was spilt.

Removal of bird mortalities

- 12. The consent holder must inspect each shed on a daily basis, at a minimum, and remove all bird mortalities. All removed mortalities must be stored in a frozen condition prior to removal off-site to an appropriately authorised disposal facility.

Notification and Communication of Complaints

- 13. The consent holder must advise the Council's Monitoring Officer as soon as practicable and within 24 hours of the receipt of any complaints received regarding the chicken broiler farming operations.

Complaints Register

- 14. The consent holder must maintain a register to record all complaints relating to the chicken broiler farming operation received by the consent holder (whether such complaints are deemed by the Council's Monitoring Officer to be justified or not).

The register must be made available to the Council's Monitoring Officer on request, and must record the following:

- i. the date, time and duration of the event;
- ii. the name (if known) and location of the complainant when the event was detected;
- iii. measures taken to verify the event;
- iv. the weather conditions and wind direction at the chicken broiler sheds and age of the birds when the event allegedly occurred;
- v. the possible causes of the event;
- vi. any corrective action taken by the consent holder in response to the complaint; and
- vii. comments regarding corrective action provided back to the complainant.

Objectional Effect and Report

- 15. Should the chicken broiler farm activity cause an objectionable odour or particulate matter effect (as deemed so by the Council's Monitoring Officer) beyond the boundary of the site, the consent holder must within five days of being advised of this objectionable effect, provide a written report to the Council specifying:

- i. the cause or likely cause of the event and any factors which influenced its severity;
- ii. the nature and timing of any measures implemented by the consent holder to avoid, remedy or mitigate any adverse effects; and
- iii. the steps to be taken in future to prevent recurrence of similar events.

Pre-Construction Condition

16. Prior to any development being undertaken on the site, a written statement must be provided to the Council appointing a representative experienced in design and development. All discussions and correspondence relating to design and development matters must be undertaken with the Monitoring Officer designated by Council.

Site Development Monitoring Condition

17. For monitoring purposes, the consent holder must advise the Council's Monitoring Officer in writing, within the timeframes set out below, of the following actions:

Action	Timeframe
Commencement of any soil disturbance or fill importation works.	No less than seven working days prior to commencement of any soil disturbance or fill importation works.
Commencement of construction of chicken broiler farm sheds (excluding foundations).	No less than seven working days prior to the commencement of construction of the sheds.
Completion of construction of all six chicken broiler farm sheds.	No less than seven working days after the completion of the sheds.

Roading Conditions

18. Prior to the first intake of birds to any of the chicken broiler sheds authorised by this consent, and prior to any occupation of the new farm dwelling, the existing farm entrance to the property located on Wani Road and shown in Figure 13 of the application described in Condition 1 of this consent, shall be upgraded and constructed in general accordance with Drawing 3100 of the Infrastructure Report referenced in Condition 1 above.

Engineering

19. Prior to the first intake of birds, the internal accessways and hard stand areas at the site must be constructed in general accordance

with the Site Plans referenced in Condition 1 of this consent and thereafter maintained for the duration of this resource consent to an all-weather surface so as to minimise the risk of dust nuisance. Adequate provision must be made for the disposal of stormwater runoff.

Advice note: The Consent Holder must dispose of shed washwater in accordance with the Waikato Regional Plan's Permitted Activity standards for farm effluent discharge, or must seek discharge consents from the Waikato Regional Council.

Advice note: At the time of lodging building consent applications for the sheds and dwellings, the consent holder will be required to demonstrate that all stormwater generated from any newly created impervious or semiimpervious surfaces in excess of the greenfield rate, can be contained within the subject property during a 10 year return period storm (10% AEP) of 60 minutes in duration.

20. The consent holder must make good any damage to the road infrastructure caused by construction machinery due to the construction operations.
21. Any soil spilled or tracked onto any public road during the earthworks and construction activities must be removed from the road immediately.
22. The consent holder must ensure that appropriate erosion and sediment control measures are adopted during earthworks and construction activities to minimise any sediment leaving the site and/or entering any stormwater drains or waterways. These measures must be implemented and maintained for the full duration of the earthworks and construction activities.

Advice note: All earthworks must be undertaken in general accordance with the Waikato Regional Council's "Erosion and Sediment Control - Guidelines for Soil Disturbing Activities (2009)"

23. The Consent Holder must ensure any imported fill used for the site's construction meets the Waikato Regional Plan's definition of "cleanfill".
24. If, at any time during any earthworks authorised by these consents, any archaeological features (including human remains, archaeology and artefacts) are uncovered on the subject site, works must cease and the Council and Heritage New Zealand Pouhere Taonga (09 307

9920) must be notified immediately, and the following accidental protocol must be followed:

- i. All earthworks must cease in the immediate vicinity (at least 10m from the site of discovery) while a suitably qualified archaeologist is consulted on the type of remains;
 - ii. If the material is identified by the archaeologist as human, archaeology or artefact, earthworks must not be resumed in the affected area (as defined by the archaeologist). The consent holder must immediately advise the Council, Heritage New Zealand Pouhere Taonga and NZ Police (if human remains are found) and arrange a site inspection with these parties immediately after discovery.
 - iii. If the discovery contains koiwi, archaeology or artefacts of Māori origin, relevant mana whenua representatives are to be provided information on the nature and location of the discovery.
 - iv. The consent holder must not recommence works until approved by the Council. The consent holder must ensure relevant mana whenua are invited to monitor the earthworks and conduct karakia and other such religious or cultural ceremonies and activities as appropriate.
25. Construction works must be limited to the daytime hours of 7:30am – 6:00pm Monday to Saturday. Construction works cannot occur on Sunday.

Construction Noise

26. Construction noise must be measured and assessed in accordance with the provisions of New Zealand Standard NZS 6803:1999 "Acoustics - Construction Noise" and shall comply with the limits contained in that Standard.

Operational Noise

27. The consent holder must ensure that noise generated by the consented activity, once operational, complies with the following limits when measured at the notional boundary of any other site:

Time of Day	Noise Level Measured in L_{Aeq}	Noise Level Measured in L_{AFmax}
7am – 10pm	50dB	-
10pm to 7am	40 dB	65 dB

Noise shall be measured in accordance with New Zealand Standard NZS 6801:2008 Acoustics – Measurement of environmental sound and

assessed in accordance with New Zealand Standard NZS 6802:2008 Acoustics - Environmental Noise.

LPG Installation

28. Prior to commencement of activities authorised under this resource consent, a copy of the Test Certification required pursuant to the Hazardous Substances and New Organisms Act 1996 covering the LPG storage installation, gas reticulation and heating equipment shall be provided to Council's Monitoring Officer.

Review Condition

29. The Council's Monitoring Officer may, in the period August – October of any year serve notice on the consent holder under section 128(1) of the RMA, of its intention to review the conditions of this resource consent for the following purposes:
 - i. 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 receiving environment; and/or:
 - ii. 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 and if necessary to avoid, remedy or mitigate such effects by way of further or amended conditions.

LUSE – 202.2024.00001922.002 – South Broiler Farm – 874 Wani Road, Netherton consent conditions

General Conditions

1. That the development authorised by this consent proceeds in general accordance with the plans and information provided with the application, namely:
 - i. Assessment of Environmental Effects Report entitled "Agright New Zealand OPCO1 Limited – Proposed Chicken Broiler Farms – Resource Consent Applications and Assessment of Environmental Effects" prepared by Mitchell Daysh, dated June 2024;
 - ii. Farm Productivity Assessment for 874 Wani Road prepared by AgFirst and dated 30 April 2024;
 - iii. Archaeological Assessment entitled "Archaeological Impact Assessment for partial conversion of a dairy farm – 780 & 874 Wani Road to broiler chicken production facilities with associated infrastructure" prepared by Neville Ritchie and dated March 2024;

- iv. Traffic Impact Assessment prepared by Maven Matamata and dated 7 May 2024;
- v. Preliminary Site Investigation prepared by CSI – Contaminated Site Investigation and dated 23 July 2024;
- vi. Air Quality Assessment prepared by PDP, Rev 2, and dated 30 May 2024;
- vii. Assessment of Noise Effects prepared by Marshall Day Acoustics and dated 16 May 2024;
- viii. Infrastructure Report prepared by Maven Matamata, Rev A and dated 7 May 2024;
- ix. Draft Site Management Plan;
- x. Hazardous Facility Screening Procedure Assessment;
- xi. Site Plans prepared by Construction Cohort and dated 16 April 2024;
- xii. Engineering plans prepared by Maven Matamata dated April 2024, Rev A;
- xiii. Landscape, Natural Character and Visual Impact Assessment prepared by Mansergh Graham Landscape Architects and dated October 2024; and
- xiv. Response to s92 further information request and accompanying information provided to Council on 14 October 2024 and 12 November 2024.

The resource consent conditions below must prevail should any inconsistencies between the application documentation, management plan and the conditions occur.

- 2. Pursuant to section 125 of the RMA, this consent lapses 7 years after the date it is granted unless:
 - i. The consent is given effect to; or
 - ii. The Council extends the period after which the consent lapses.
- 3. The site must be operated under the commercial free-range farming model or barn raised farming model whereby the stocking rate must not exceed 18 birds per m².

Monitoring/Review

- 4. The consent holder must maintain records in sufficient detail to demonstrate compliance with the maximum bird stocking density stated in Condition 3 at any point in time and must provide those records to the Council's Monitoring Officer on request.

Annually, by no later than 31 January, the consent holder must submit to the Council's Monitoring Officer, a summary of the previous

calendar year's stocking density data to demonstrate ongoing compliance with Condition 3.

Landscape Mitigation Planting

5. Within six months of the granting of this consent, the consent holder must fully plant the planting of a contiguous evergreen hedgerow capable of growing to 3m in height within 4 years along the roadside boundary, northern boundary between the road and western end of the poultry sheds, and the southern boundary between the road and the western end of the poultry shed as depicted on the Recommended Mitigation Planting Farm 2 Plan in the Landscape, Natural Character and Visual Impact Assessment referenced in condition 1 above.
6. Within six months of the granting of this consent, the consent holder must fully implement the planting of a cluster of Kahikatea specimen trees in the south-eastern corner of the site as depicted on the Recommended Mitigation Planting Farm 2 Plan in the Landscape, Natural Character and Visual Impact Assessment referenced in condition 1 above.
7. The planting as required through conditions 5 and 6 above must be certified as being in general accordance with the Recommended Mitigation Planting Farm 2 Plan in the Landscape, Natural Character and Visual Impact Assessment referenced in condition 1 above by a suitably qualified and independent person. The consent holder must submit the certificate to the Council's Monitoring Officer that the required planting has been fully implemented in a professional and workmanlike manner. The planting must be protected and maintained thereafter.

Retention of Kahikatea Trees

8. The consent holder must retain the stand of Kahikatea trees in the south-western corner of the site as shown on the Recommended Mitigation Planting Farm 2 Plan in the Landscape, Natural Character and Visual Impact Assessment referenced in condition 1 above.

Site Management Plan

9. By no later than two months prior to the first intake of birds at the rearing sheds, the Consent Holder must provide to the Council's Monitoring Officer, for certification, an updated Site Management Plan ("SMP") generally in accordance with the "DRAFT Site Management Plan" referenced in condition 1 above with reference to all of the matters outlined in sub-clauses (i) – (xiii) below.

The consent holder must provide the Council's Monitoring Officer with written notice of any subsequent revisions or amendments to the SMP within one week of any changes being made. As a minimum the SMP must be reviewed by the Consent Holder every 4 years.

The SMP must always document how compliance will be achieved with the conditions of this consent and the SMP must always include the following matters:

- i. Contact details and responsibilities of key personnel who are responsible for implementing the SMP;
- ii. General odour management and minimization procedures for the site's operation including load-out and washing;
- iii. Identification of potential sources of odour;
- iv. Measures available to avoid, remedy or mitigate adverse effects from these sources;
- v. Details of self-monitoring that will be carried out including details of odour monitoring;
- vi. Methods for ensuring familiarisation of all staff with consent conditions/contents of the SMP;
- vii. Protocols to regularly verify litter moisture content and the best practicable steps to be taken to comply with the conditions of this resource consent;
- viii. Protocols for management of wash-water and stormwater disposal systems;
- ix. Protocols for maintenance of ventilation systems;
- x. Protocols for the storage and removal of dead chickens;
- xi. The provision of contact details to neighbours for lodging complaints or feedback;
- xii. Procedures for dealing with odour complaints. These procedures shall be generally in accordance with the procedures outlined in the Ministry for the Environment Good Practice Guide for Assessing and Managing Odour; and
- xiii. Maintenance of the complaints record.

The consent holder must ensure that the chicken broiler farm is, at all times, operated in general accordance with the current version of the SMP. In the event of any conflict or inconsistency between the conditions of this consent and the provisions of the SMP, then the conditions of this consent must prevail.

Odour and dust emissions

10. As a result of the operation of the chicken broiler farm, either in isolation or cumulatively with operation of consent LUSE – 202.2024.00001922.001, the discharge must not result in odour that

is objectionable at Sensitive Receptor Locations positioned beyond the site boundary.

11. As a result of the operation of the chicken broiler farm, either in isolation or cumulatively with operation of consent LUSE – 202.2024.00001922.001, the discharge must not result in particulate matter that is objectionable at Sensitive Receptor Locations positioned beyond the site boundary.

Advice Note: For the purpose of conditions 10 and 11, Sensitive Receptor Locations are defined as locations where people are permanently living (including the curtilage areas of dwellings) or where people are permanently located for their work (excluding locations where activities such as driving, biking, reserve excursion or walking past the applicant's site, or transient farming activities such as fixing a fence or moving animals are occurring).

Removal of chicken litter

12. Chicken litter must be removed from the sheds in a manner that achieves compliance with Conditions 9, 10 and 11. As a minimum this will include:
 - i. Sheds must be thoroughly cleaned at the end of each cycle so that no accumulation of dust or odorous materials occurs;
 - ii. Litter must be removed off-site from the sheds at the end of each production cycle. Spent litter must not be reused during subsequent production cycles;
 - iii. Litter cleared from the sheds must be removed from the site as soon as practicable; and
 - iv. Used litter spilt outside the sheds during the clean-out operations must be removed on the same day that it was spilt.

Removal of bird mortalities

13. The consent holder must inspect each shed on a daily basis, at a minimum, and remove all bird mortalities. All removed mortalities must be stored in a frozen condition prior to removal off-site to an appropriately authorised disposal facility.

Notification and Communication of Complaints

14. The consent holder must advise the Council's Monitoring Officer as soon as practicable and within 24 hours of the receipt of any complaints received regarding the chicken broiler farming operations.

Complaints Register

15. The consent holder must maintain a register to record all complaints relating to the chicken broiler farming operation received by the consent holder (whether such complaints are deemed by the Council's Monitoring Officer to be justified or not).

The register must be made available to the Council's Monitoring Officer on request, and must record the following:

- i. the date, time and duration of the event;
- ii. the name (if known) and location of the complainant when the event was detected;
- iii. measures taken to verify the event;
- iv. the weather conditions and wind direction at the chicken broiler sheds and age of the birds when the event allegedly occurred;
- v. the possible causes of the event;
- vi. any corrective action taken by the consent holder in response to the complaint; and
- vii. comments regarding corrective action provided back to the complainant.

Objectional Effect and Report

16. Should the chicken broiler farming activity cause an objectionable odour or particulate matter effect (as deemed so by the Council's Monitoring Officer) beyond the boundary of the site, the consent holder must within five days of being advised of this objectionable effect, provide a written report to the Council specifying:

- i. the cause or likely cause of the event and any factors which influenced its severity;
- ii. the nature and timing of any measures implemented by the consent holder to avoid, remedy or mitigate any adverse effects; and
- iii. the steps to be taken in future to prevent recurrence of similar events.

Pre-Construction Condition

17. Prior to any development being undertaken on the site, a written statement must be provided to the Council appointing a representative experienced in design and development. All discussions and correspondence relating to design and development matters must be undertaken with the Monitoring Officer designated by Council.

Site Development Monitoring Condition

18. For monitoring purposes, the consent holder must advise the Council's Monitoring Officer in writing, within the timeframes set out below, of the following actions:

Action	Timeframe
Commencement of any soil disturbance or fill importation works.	No less than seven working days prior to commencement of any soil disturbance or fill importation works.
Commencement of construction of chicken broiler farm sheds (excluding foundations).	No less than seven working days prior to the commencement of construction of the sheds.
Completion of construction of all six chicken broiler farm sheds.	No less than seven working days after the completion of the sheds.

Roading Conditions

19. Prior to the first intake of birds to any of the chicken broiler sheds authorised by this consent, a new farm entrance located on Wani Road must be constructed in general accordance with Drawing C3200 of the Infrastructure Report referenced in condition 1 above.
20. Prior to the occupation of any new dwellings a new vehicle crossing to service these dwellings must be constructed in general accordance with Drawing C3200 of the Infrastructure Report referenced in condition 1 above.

Engineering

21. Prior to the first intake of birds, the internal accessways and hard stand areas at the site must be constructed in general accordance with the Site Plans referenced in Condition 1 of this consent and thereafter maintained for the duration of this resource consent to an all-weather surface so as to minimise the risk of dust nuisance. Adequate provision must be made for the disposal of stormwater runoff.

Advice note: The Consent Holder must dispose of shed washwater in accordance with the Waikato Regional Plan's Permitted Activity standards for farm effluent discharge, or must seek discharge consents from the Waikato Regional Council.

Advice note: At the time of lodging building consent applications for the sheds and dwellings, the consent holder will be required to demonstrate that all stormwater generated from any newly created impervious or semiimpervious surfaces in excess of the greenfield

rate, can be contained within the subject property during a 10 year return period storm (10% AEP) of 60 minutes in duration.

22. The consent holder must make good any damage to the road infrastructure caused by construction machinery due to the construction operations.
23. Any soil spilled or tracked onto any public road during the earthworks and construction activities must be removed from the road immediately.
24. The consent holder must ensure that appropriate erosion and sediment control measures are adopted during earthworks and construction activities to minimise any sediment leaving the site and/or entering any stormwater drains or waterways. These measures must be implemented and maintained for the full duration of the earthworks and construction activities.

Advice note: All earthworks must be undertaken in general accordance with the Waikato Regional Council's "Erosion and Sediment Control - Guidelines for Soil Disturbing Activities (2009)"

25. The Consent Holder must ensure any imported fill used for the site's construction meets the Waikato Regional Plan's definition of "cleanfill".
26. If, at any time during any earthworks authorised by these consents, any archaeological features (including human remains, archaeology and artefacts) are uncovered on the subject site, works must cease and the Council and Heritage New Zealand Pouhere Taonga (09 307 9920) must be notified immediately, and the following accidental protocol must be followed:
 - i. All earthworks must cease in the immediate vicinity (at least 10m from the site of discovery) while a suitably qualified archaeologist is consulted on the type of remains;
 - ii. If the material is identified by the archaeologist as human, archaeology or artefact, earthworks must not be resumed in the affected area (as defined by the archaeologist). The consent holder must immediately advise the Council, Heritage New Zealand Pouhere Taonga and NZ Police (if human remains are found) and arrange a site inspection with these parties immediately after discovery.
 - iii. If the discovery contains koiwi, archaeology or artefacts of Māori origin, relevant mana whenua representatives are to

be provided information on the nature and location of the discovery.

- iv. The consent holder must not recommence works until approved by the Council. The consent holder must ensure relevant mana whenua are invited to monitor the earthworks and conduct karakia and other such religious or cultural ceremonies and activities as appropriate.

- 27. Construction works must be limited to the daytime hours of 7:30am – 6:00pm Monday to Saturday. Construction works cannot occur on Sunday.

Construction Noise

- 28. Construction noise must be measured and assessed in accordance with the provisions of New Zealand Standard NZS 6803:1999 “Acoustics - Construction Noise” and shall comply with the limits contained in that Standard.

Operational Noise

- 29. The consent holder must ensure that noise generated by the consented activity, once operational, complies with the following limits when measured at the notional boundary of any other site:

Time of Day	Noise Level Measured in L_{Aeq}	Noise Level Measured in L_{AFmax}
7am – 10pm	50dB	-
10pm to 7am	40 dB	65 dB

Noise shall be measured in accordance with New Zealand Standard NZS 6801:2008 Acoustics – Measurement of environmental sound and assessed in accordance with New Zealand Standard NZS 6802:2008 Acoustics - Environmental Noise.

LPG Installation

- 30. Prior to commencement of activities authorised under this resource consent, a copy of the Test Certification required pursuant to the Hazardous Substances and New Organisms Act 1996 covering the LPG storage installation, gas reticulation and heating equipment shall be provided to Council’s Monitoring Officer.

Review Condition

- 31. The Council’s Monitoring Officer may, in the period August – October of any year serve notice on the consent holder under section 128(1) of the RMA, of its intention to review the conditions of this resource consent for the following purposes:

- i. 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 receiving environment; and/or:
- ii. 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 and if necessary to avoid, remedy or mitigate such effects by way of further or amended conditions.

Resolution No.

Milner/Crooymans

CARRIED

Dated at Paeroa this 17th day of July 2025

P Milner

Chairperson – Judicial and Hearings Committee