

IN THE MATTER

of the Resource Management Act 1991 (“RMA” or “the Act”)



AND

IN THE MATTER

of applications under section 88 of the Act to the **Tasman District Council** by **Tasman Bay Asphalt Limited** for resource consents for an Asphalt Plant (**RM201000, RM201002, RM201018**)

CLOSING LEGAL SUBMISSIONS OF COUNSEL FOR THE APPLICANT

1 April 2022

1. INTRODUCTION

- 1.1 These closing submissions relate to the application by Tasman Bay Asphalt Limited (“TBAL” or “the Applicant”) for resource consents needed to authorise an asphalt plant and associated earthworks, discharges to air, and construction of an acoustic barrier at 272 Bartlett Road (“Site”), just outside the true right stopbank of the Waimea River.
- 1.2 The need for a further source of asphalt for the Nelson and Tasman regions, and the consequential social and economic benefits of this plant, are clear on the evidence and from submissions. This need was not challenged by opposing submitters, and was bolstered by submitters including Mr Dick for Projects and Ventures Ltd¹ and Mr Winkelmann,² who described the need for a resilient asphalt supply.

¹ Submitter 4

² Submitter 7

- 1.3 The proposal will provide much needed asphalt, with less than minor adverse environmental effects. The proposal to rehabilitate both the stopbank and the Site itself once operations cease, mean that the proposal will have positive environmental effects in the longer term.
- 1.4 There is very little dispute between the expert witnesses on those matters, and no substantial differences between the Applicant's witnesses and Council officers. At the conclusion of the hearing, Council officers confirmed that they recommended consent be granted, subject to appropriate conditions.
- 1.5 The Applicant's opening submission comprehensively addressed the effects of the proposal, consistency with the relevant planning instruments' objectives and policies, and Part 2 matters. Those submissions, which the Applicant continues to rely on, are not repeated. These reply submissions address matters raised during the hearing, in the Joint Witness Statement – Air Quality (“JWS”), and in Council and submitter comments on conditions.

2. REVISED CONSENT CONDITIONS

- 2.1 Attached as Appendix 1 to these submissions is a suite of amended consent conditions.
- 2.2 The attached conditions respond to:
- a. Questions and issues raised by the Commissioners, Council officers and submitters (and their counsel and witnesses) during the hearing;
 - b. The Joint Witness Statement – Air Quality dated 9 February 2022;
 - c. Comments by council officers and submitters on the draft conditions circulated following the hearing.
- 2.3 Attached as Appendix 2 is a table analysing Council and submitters comments on the conditions, and providing the Applicant's response. Within these reply submissions, submitter comments are addressed as they arise in relation to key issues.

3. REPLY TO ISSUES RAISED BY COUNCIL, SUBMITTERS AND COMMISSIONERS

Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS)

- 3.1 The Applicant sought to ensure, for the avoidance of doubt, that if its activity requires resource consent under the NESCS, that this authorisation is provided as part of the consents presently sought. The issue was addressed in opening submissions³ and in preliminary submissions by counsel for Edens Road and Ors.
- 3.2 Mr Pigott explained that this site is very large (391 ha) and the “piece of land” where the asphalt plant is to be located is 200 m away. The risk of discovering something is relatively low, but in the bermlands “who knows?” ... “you don’t know until you start digging”. For that reason, Council supports an accidental discovery protocol approach. Mr Doole advised that council’s practice is to issue a land use consent if the requirement for consent is only triggered by the NES-CS. Otherwise, conditions relating to the NES-CS are generally incorporated into a wider land use consent. Council is therefore comfortable with the Applicant’s approach.
- 3.3 It is open to you to grant consent on the conditions sought, which include conditions relating to site contaminants.
- 3.4 Land use consent Condition 5 provides for benchmark contaminant testing. Council did not query the condition but sought deletion of an advice note to condition 5.⁴ Eden Fruit and Ors sought a replacement advice note stating:
- These obligations are in addition to any obligations within the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soils to Protect Human Health) Regulations 2011.
- 3.5 Similar amendments are proposed at Earthworks consent Condition 30, which relates to benchmark testing following removal of the gravel crusher. The Applicant accepts Council’s deletion and Eden Fruit and Ors proposed advice note to Condition 5. If additional obligations apply under the NES-CS, the Applicant will comply with them.

Activity for which consent is sought does not include gravel extraction

- 3.6 Legal submissions for Dr Teece state that there is a material gap in the documentation notified with the proposal as the Applicant has not applied for gravel and extraction land use consent.⁵

³ At 3.11 to 3.21.

⁴ The advice note stated: “It is acknowledged that removal of any contaminated soils off site to approved facility is the responsibility of the person who caused the contamination, ie Downer Group NZ Ltd.”

⁵ Paragraph 18.

- 3.7 The activity for which resource consents are sought does not include gravel extraction. The Applicant is not in the business of gravel extraction.

Downer existing use rights / existing environment

- 3.8 The Teece legal submissions maintain that use of the wider site for gravel extraction and processing should not be taken into account when assessing the current proposal because the Applicant has not established that these activities are lawfully established.⁶ This is said to have implications for assessing the functional need for the activity to locate at this site, and for the assessment of the effects of the proposal. Counsel for Edens Road and Ors also sought to pursue this submission point.
- 3.9 The gravel extraction and processing activity undertaken on the wider site has been operating for many years. It is referenced in the Waimea River Park Management Plan. The s 42A report treated these activities as part of the existing environment, and ongoing, and Mr Doole confirmed at the hearing that Council's approach to this application is based on accepting there is an existing ongoing industrial activity next door.
- 3.10 Dr Teece's submission did not raise this as an issue. The submission says "it is not clear from the application information whether the application relies on existing use rights. Further, if the application does rely on existing use rights, then in our view the application and the subsequent section 92 response do not contain enough information to prove that there are any existing use rights available for this site".⁷ The only reasonable interpretation of this submission point is that the submitter was questioning whether any aspects of the Applicant's activity sought to rely on existing use rights, not that the existing use rights of another party undertaking a different activity were being questioned.
- 3.11 In those circumstances, it is hardly surprising that the Applicant did not call extensive evidence to establish that Downer New Zealand Limited has existing use rights authorising gravel extraction and crushing.
- 3.12 Where a party is seeking to establish that it has existing use rights to undertake an activity, it bears the onus of proving such rights.⁸ However, where the question is rather what constitutes the "existing environment", and a party asserts that the existing environment does not include an activity that has been operating for many years and which Council

⁶ Paragraph 20.

⁷ At 25(b).

⁸ *Aokautere Land Company Ltd v Palmerston North City Council* [2014] NZEnvC 75 at [27]

accepts is lawfully established, it is submitted that the onus of demonstrating that the existing environment does not include that activity must fall on the party so asserting. Otherwise, the Applicant would have to produce voluminous evidence to establish every aspect of the existing environment, in case it was challenged by submitters. The submitters have not presented any information at all to support their assertion, which must fail.

- 3.13 The Applicant has now made further enquiries about this issue, and obtained resource consents granted to Downers in 2019 to take and discharge water for use in gravel washing at the site. A copy of these consent decisions is provided with these submissions. The decision states that “gravel is reportedly crushed on-site after it has been washed” and “the existing operation has been occurring for a number of years (reportedly since at least 1971)” and “expiring consent NN020105 authorises the discharge of water and associated sediment from a gravel washing operation via infiltration from a settling pond to the Waimea River. No changes are sought.”¹⁰
- 3.14 That Downers hold permits for water take and discharge associated with their gravel extraction and processing activities, and the lack of any discussion in the decision of the associated gravel extraction and processing activities requiring authorisation, indicates that these activities form part of the existing environment.
- 3.15 Accordingly, it is appropriate to treat gravel extraction and processing activities operating in the Lease Area (and their effects on amenity, dust, noise and recreation) as part of the environment against which the effects of the asphalt plant are to be assessed.
- 3.16 A related submission was also advanced to the effect that unless you are satisfied there is a legal source of gravel, you cannot grant consent to an asphalt plant that proposes to use that gravel. For the reasons set out above, the Applicant submits that there is a legal source of gravel. However, you are not required to enquire into the lawfulness of sources of gravel that will be used to make asphalt if the plant is consented and implemented, any more than you need to determine whether the invasion of Ukraine may affect the availability of diesel for running the plant.

⁹ Page 13.

¹⁰ Page 14.

Discharges

Non-expert evidence

- 3.17 Other than the opposing horticultural submitters, no submitter produced expert evidence in relation to the nature of the plant's contaminant discharges or their effects. Despite this, several submitters gave their non-expert views on those issues.¹¹
- 3.18 While section 276(2) of the Act provides that the Environment Court is not bound by the rules of evidence that apply to judicial proceedings, that does not mean anything goes.¹² Non-expert opinion on matters requiring specialist knowledge or evaluation is generally inadmissible or if admitted then given no weight.¹³ Technical issues relating to contaminant discharges are clearly matters of expert opinion. Non-expert evidence on these matters was inadmissible in *Scholes v Canterbury Regional Council*.¹⁴ Non-expert submitter evidence on air quality issues should similarly be treated as inadmissible or given no weight.
- 3.19 For completeness, it is also submitted that evidence of overseas asphalt plants and overseas papers cited by submitters should be given no weight. Dr Teece referred to an asphalt plant in West Berkeley, California, that has apparently caused significant issues for residents. Photograph of the plant that Dr Teece is presumed to have been referring to are shown below:

¹¹ For example, Dr Teece at paragraphs 16 – 19, presentations by Barth and Cartwright, and Barth comments on conditions.

¹² *EM & TJ Warburton v South Wairarapa District Council*, 15 October 2009, Thompson J at [21]; *Scholes v Canterbury Regional Council* [2010] NZEnvC 29 at [22]

¹³ *Scholes v Canterbury Regional Council* [2010] NZEnvC 29 at [22]

¹⁴ *Ibid* at [21].



Images 1 and 2: West Berkeley Asphalt Plant¹⁵

- 3.20 The West Berkeley plant is clearly not comparable with the modern Marini Carbon T Box with best practice emissions control that is proposed in this application.
- 3.21 Submitters Cartwright and Barth produced various overseas papers in support of their submissions.¹⁶ These reports were not produced in time for Mr Bender to assess them in his written evidence or comment on them when giving oral evidence at the hearing. The USEPA report is a study of typical emissions from different asphalt plant designs. Mr Bender has reviewed all relevant USEPA reports and has included them in his assessment where relevant. In particular, he relies on emissions factors in a later 2004 USEPA report.¹⁷ Mr Piggott agreed that the EPA document was dated, and agreed with the emissions factors used by Mr Bender.¹⁸ The document produced by the Center for Health, Environment and Justice is an advocacy document. Mr Bender has advised that it is not a reliable source of information on asphalt plant emissions. Much of this document is not relevant (e.g. parts relate to use of coal-tar rather than bitumen in asphalt production) and other parts of the document use studies out of context to reach conclusions that are incorrect.
- 3.22 In order for these documents to be of use to the Commissioners, it would be necessary for particular findings or recommendations to be set out as part of expert evidence and

¹⁵ Source for Image 1: <<www.berkeleyside.org/2020/12/22/whats-causing-the-stinky-sulfur-smell-tormenting-people-in-northwest-berkeley>>, accessed 30/3/2022. Source for Image 2: <<www.berkeleyside.org/2014/06/12/berkeley-asphalt-plant-emissions-dangerous-say-residents>>, accessed 30/3/2022.

¹⁶ USEPA *Hot Mix Asphalt Plants Emission Assessment Report*, December 2000; Center for Health, Environment and Justice, *Asphalt Plants Factpack – P131*, August 2016

¹⁷ At paragraph 9.7.

¹⁸ Mr Piggott evidence to hearing.

their relevance to the proposal before you explained. That has not occurred. No weight should be placed on these documents.

Expert evidence and conferencing

- 3.23 There was a large measure of agreement between the air quality experts as to the potential effects of the proposal. Any distinctions between them largely related to recommendations for mitigating effects.
- 3.24 Most of the recommendations regarding discharge mitigation measures in Mr Iseli's statement of evidence were taken up by the Applicant in the revised conditions provided at the hearing. In particular:
- a. The stack height was increased to 12.5m.
 - b. To address concerns from Mr Iseli about condensable particulate matter, Mr Bender re-modelled the emissions for the asphalt plant to capture both condensable and filterable particulate matter, also including a revised 12.5m stack height and a reduced efflux velocity maximum. The model showed improved dispersion provided by the increased stack height with significantly lower predictions of contaminant concentrations near the site boundary, and marginally lower concentrations at the nearest residential receptors even with the lower efflux velocity and higher emission rates.¹⁹
 - c. In addition to increasing the stack height, Mr Iseli recommended fitting carbon filters on the heated bitumen tank vents, ducting fumes from the top of the asphalt bins to the drum mixer, fitting mist curtains around the truck load-out area and using odour neutralising sprays. The conditions presented at the hearing provided for carbon filters and lidded filler bins.
 - d. Most of Mr Iseli's recommendations for how to manage dust were adopted.²⁰

¹⁹ Chris Bender rebuttal at 2.4-2.6.

²⁰ His evidence stated that "sealing of primary vehicle use areas and the site entrance would be appropriate in this case and should be shown accurately on a plan that forms part of any consent conditions. Maximum vehicle speeds on site should be specified. Water application methodology and treatment of any unsealed surfaces should be specified. Measures to prevent tracking of mud and generation of dust by trucks at the site entrance should be detailed. I consider that these various dust control measures should be included in a comprehensive dust management plan for the site, to be certified as part of conditions..." (at 3.5). All of those recommendations have been adopted.

3.25 Following the hearing, further refinements to the stack discharge and dust related conditions were discussed at joint witness conferencing and largely agreed:

- a. Regarding dust, Mr Iseli stated that subject to sealing areas of the site with truck movements, adverse effects on crops resulting from dust from the site could be minimised. Provided a plan is attached to conditions showing the areas to be sealed including the main truck movement areas, and provided good dust management practices are used, Mr Iseli considered adverse dust effects from the site are likely to be acceptable. Mr Pigott and Mr Bender agreed.
- b. There was agreement on all conditions relating to discharges from the asphalt plant stack.
- c. Regarding odour, Mr Iseli considered fugitive odours to present the highest risk to crops and accordingly recommended that the truck loadout area be enclosed, Mr Bender agreed with the recommendation to build an enclosure around the loadout area. The issue remaining in dispute relates to how air from the loadout area is dealt with.^{21,22} Mr Iseli considers emissions should be extracted and incinerated through the main stack. Mr Bender proposes that extracted air is ventilated at a height of 12.5 m above surrounding ground level. Due to the plant's configuration, directing air extracted from the loadout area is not practicable in terms of plant layout. In addition, as the asphalt plant is required to stop operating by 6.30 pm but loadout may occur until 9 pm [during exception events], the burner will not necessarily be operating when the loadout is being used.

3.26 Amended conditions from the JWS were adopted in the conditions circulated by the Applicant on 24 February 2022 (noting the remaining disputed issue above), with one amendment. Condition 14 from the JWS required loads to be covered before the roller door to the loadout area is lifted and trucks exit. This is not achievable for health and safety reasons, as it would have required drivers to walk under the silo. The revised condition provides that loadouts must occur with the roller doors closed and the extraction system fully operational. The cover may then be secured either inside or outside the loadout area but before trucks exit the Application Site.

²¹ JWS at 9 – 11.

²² Mr Iseli also maintains that potential adverse effects would be best prevented by a minimum 200m separation distance (requiring an alternative site is used). It is notable that in *McCain* the asphalt plant was less than 200m (120 m) from the crops.

- 3.27 Edens Road and Ors comments on the draft conditions continue to seek a condition directing extracted loadout air to the mixing drum for incineration.²³ Their counsel accepts the condition “may have consequential impacts on the Applicant’s preferred plant design and proposed operating hours and cost but that is a necessary consequence”. The implication is that the Applicant is only concerned with the cost of the plant, or of running the plant. That is not the case.
- 3.28 Mr Bender does not support directing loadout air to the mixing drum. The amount of excess air required to be extracted from the loadout area can exceed the design rate of air flow through the mixing drum, which can have unintended consequences that affect the plant’s operation, including production quality and potentially increase emissions to air. Mr Bender does not accept that the option described by Mr Iseli is the most effective option, and considers that the proposal represents the best practicable option in relation to the discharge of fugitive emissions.
- 3.29 The Applicant will not be running the plant continuously during operating hours. Once asphalt has been produced and the silo filled, the plant will be turned off. Trucks will be loaded over the following hour. The approach proposed by Edens Road and Ors would require the plant to be kept running (and burning diesel) even when it is not producing asphalt.
- 3.30 During exception events, loadout will continue for one hour (weekdays) or four hours (Saturdays) after the plant has stopped operating. A requirement to direct loadout air to the mixing drum and incinerate it means the plant must be operating. The practical effect of the condition sought would be to limit asphalt loadout to times when the plant is operating. The condition would frustrate the Applicant’s ability to supply asphalt for evening and weekend works for exception events. The need for supply during these periods was described in Mr du Plessis’ evidence and by supporting submitters.
- 3.31 Edens Road and Ors continue to rely on the potential for tainting as supporting the approach that secures the most certainty in relation to avoidance or mitigation of that effect. Their preferred option does not provide the most certainty. In any event, as set out in opening submissions, the horticultural submitters’ concerns regarding tainting are no doubt genuine but are simply not borne out on the evidence. As Mr Piggott noted,

²³ Final comments on Applicant Conditions dated 18 March 2022.

there are dozens of coal boilers across the Rural 1 and 2 zone (used for heating glasshouse) and no issues of taint have been raised as a result.

- 3.32 Counsel for Edens Road and Ors refer to various TRMP objectives and policies relating to the use of and effects on rural land and productive value (Chapter 7). With the significant improvements in dust, plant and fugitive emissions that have been put forward by the Applicant in response to matters raised through the hearing, it is submitted that you can be satisfied that the proposal is fully consistent with those provisions.

Appropriateness of zone / character and amenity effects

- 3.33 Submissions for Dr Teece assert that the proposal is not contemplated in the rural zone and is an out-of-zone activity.²⁴ Dr Teece's case focussed on the effects of traffic past his property. Other submitters also claimed that the activity is not able to be authorised in this zone.
- 3.34 The starting point is that the proposal is for a discretionary activity. Discretionary activities may be granted or declined. Where discretionary activities are provided for in a zone, this indicates the activity may be considered appropriate having regard to its effects and relevant plan provisions. While permitted activities are provided for "as of right", they are not the only activities contemplated in a zone.
- 3.35 The reasons why the plant is appropriate in this location, and in fact has a significant functional need to locate in this area, were addressed in opening submissions. In summary, the plant:
- a. Will be directly next to its aggregate source, which reduces truck movements with corresponding reductions in air discharge, noise, traffic, and amenity effects.
 - b. Will be located in a confined part of the Waimea River Park within an area leased by Council to Downer specifically for aggregate-related industrial activities.
 - c. Has a functional need to locate outside the Richmond Airshed. While there are industrial zones on Lower Queen Street the plant could not locate close to Nelson Pine Industries' plant (also on Lower Queen Street) due to the additive effect of the combined discharges.²⁵

²⁴ At 61.

²⁵ Mr Piggott evidence to hearing

- d. Has a functional need to be in a location that is close to the areas where asphaltic concrete will be used and which provides a number of route options so that road closures do not prevent asphalt distribution.
 - e. Has a functional need to locate safe from natural hazards.
- 3.36 In his counsel's submissions to the hearing, Dr Teece relied on Objective 5.2.2 (maintenance and enhancement of amenity values) and Policy 5.2.3.8, which is to avoid, remedy or mitigate the adverse effects of traffic on the amenity of residential, commercial and rural areas. Dr Teece also relied on Objective 7.2.4 and Policy 7.4.3.4 and Policy 11.1.3.4. All seek, with varying formulations, that effects on amenity are avoided, remedied, or mitigated.
- 3.37 Dr Teece's evidence reflects an unrealistic expectation (not supported by the TRMP) that this Rural 1 environment should be treated as a quiet, residential zone rather than a working environment.²⁶ Traffic movements are an inevitability when a much-needed product is produced in one location but is required in other locations around the region. The Applicant has avoided some traffic movements altogether by seeking to site next to its gravel supply,²⁷ and has proposed a range of actions to mitigate effects on amenity of remaining traffic movements. The policies that Dr Teece relies on indicate a tolerance for some amenity effects, which may be mitigated (made smaller) and do not have to be avoided altogether. The actions that the Applicant must take, as secured by consent conditions, ensure that this objective and policy are met.
- 3.38 Mr Doole added useful context to this issue in his officer comments at the hearing. He said that:
- a. This is a mixed-use area. While it is mostly Rural 1 and 2, there are a number of residential properties. People have brought into a Rural zone. Things do change.
 - b. The Rural Objectives and Policies do need to be given weight, especially Policy 7.1.3.11²⁸ but this policy does say "discourage" not "avoid".²⁹ This policy needs to be

²⁶ For example, he states: "it's not fair ... to put truck and trailer units with heavy loads where there are residents, even if its rural lifestyle" (paragraph 8) and he frequently describes the area as "bucolic" (relating to the pleasant aspects of the countryside and country life). The Applicant notes that truck and trailers will not be used.

²⁷ In contrast, the existing asphalt plant in Tahunanui must transport aggregate from the Waimea River to the plant, and then transport asphalt from the plant to the end users' locations.

²⁸ Addressed in opening submissions at 4.73.

²⁹ Policy 7.1.3.11 is to "Discourage industrial activities in the Rural 2 Zone unless they have a significant functional need to locate in that zone." The proposal has a significant functional need to locate in the Rural 2 zone (as set out

looked at in the context of achieving other benefits, and sustainable management. This is a discretionary activity, not non-complying.

- c. Industrial spot zones are largely for existing activities.
 - d. At the end of the day, this is a discretionary activity not non-complying. There are so many different scenarios in this zone.
- 3.39 Dr Teece also relies on Policy 5.1.3.9 which seeks to avoid, remedy or mitigate effects of noise and vibration beyond the boundaries of the site generating the effect. Given the evidence that daytime noise from the plant will be well below the TRMP daytime limit and “barely noticeable”, and noise during exception event evenings “perceptible” but “adequately low as to have no impact on residential activities,”³⁰ it is submitted that this policy is met.
- 3.40 Counsel for Dr Teece filed a Memorandum in response to the Applicant’s conditions. The Memorandum focusses on truck movements and associated noise and amenity effects, and largely reprises Dr Teece’s evidence at the hearing.
- 3.41 Dr Teece proposes that all truck movements to and from the proposed asphalt plant be rerouted:
- a. Away from Bartlett Road and Ranzau Road and onto River Road [the haul road between Bartlett Road and Blackbyre Road] and Blackbyre Road.
 - b. Away from Ranzau Road and onto Bartlett’s Road.
- 3.42 Dr Teece asserts that the Applicant is not attracted to use of the haul road because it is not a public road and approval is required from the owner and/or leases of the affected land. His counsel acknowledges that the consent authority cannot impose conditions that require an applicant to undertake activities on land it does not control but submits that this remains an alternative route that the Applicant should use in order to present a proposal that successfully resolves effects on traffic safety, rural character and amenity.
- 3.43 The routes suggested by Dr Teece are not within the scope of the application, and nor are they approved by Waka Kotahi or Council as landowner. Blackbyre Road was considered

in opening submissions at ref), but even if you were to find that it does not, Policy 7.1.3.11 is not a barrier to granting the application. “Discourage” is a less directive word than “avoid”, and in having regard to the objectives and policies under s 104 you must undertake a fair appraisal of all of them, assessed as a whole.

³⁰ Matthew Bronka evidence at 2.4 – 2.7.

by the Applicant, but removed prior to notification because Council advised it would not support that route.³¹ Use of the unsealed haul road already generates a large amount of dust which would be exacerbated by asphalt plant trucks using this route.

- 3.44 Dr Teece's opinions on traffic effects are not supported by the expert assessments of Mr Clark and Mr Fon. The proposal already adequately avoids or mitigates traffic effects, in particular through:
- a. Specifying routes to be used by inbound/outbound trucks.
 - b. Restrictions on hours of operation.
 - c. Restrictions on using Ranzau Road during school pick up/drop off.
 - d. Application of a Traffic Management Plan and Noise Management Plan with additional noise mitigation measures.
- 3.45 Dr Teece seeks that the hours of operation are reduced to 5.30 pm weekdays and 12 noon Saturdays, and that there are no exception events, or a limit of 12 exception events (finishing at 9 pm weekdays and 6 pm Saturdays).
- 3.46 Dr Teece's proposed restriction on exception events to 12 instead of 30, and the reduction in operating hours:
- a. Do not reflect TRMP noise limit "daytime" hours.
 - b. Will not enable the Applicant to meet the significant community need for asphalt for unanticipated night/weekend roadworks.
 - c. Are not effects based.
- 3.47 There is a significant level of agreement between Ms Satory and Mr Bronka with respect to their noise assessments with the only substantial difference between them relating to existing ambient noise.³² While Ms Satory supported her assessment of background noise with measurements of the end of Bartlett Road where-as Mr Bronka's were based on Ranzau Road West, as Mr Winter advised – "you could go out tonight and get a different number".

³¹ Jane Bayley oral evidence, hearing day 2.

³² 49 dB according to Mr Bronka; 41 dB according to Ms Satory.

- 3.48 Mr Bronka's assessment of truck noise at residences along potential asphalt truck routes shows that on regular days when trucks stop at 6.30pm (weekdays) or 6pm (Saturdays) the noise from trucks going to and from the asphalt plant will not be noticeable. Ms Satory agrees with this conclusion.³³ They agree that there will be an increase in traffic noise on the 30 exception event evenings. During the late evening noise is predicted to increase by 6 dB compared to background (14 dB if Ms Satory's evidence is preferred).³⁴ Noise will not exceed 54 dB $L_{Aeq(1hr)}$ at a point 20 metres from road edge.³⁵ The acceptable level recommended by Waka Kotahi for outside living areas is 55 dB $L_{Aeq(1hr)}$.
- 3.49 Mr Bronka's evidence is that on the exception event days, noise from trucks after 6.30pm/6pm will be noticeable but not to the extent it will cause a distraction or disturbance from typical evening activities. The overall effect of this level of intrusion, given it will only happen a maximum of 30 days a year and even then is unlikely to be experienced on the same road every one of those 30 days, is a slight loss of amenity.³⁶
- 3.50 Mr Winter noted that whether the difference it is 6 dB or 14 dB, those numbers are at 10 m from the road whereas for traffic noise it is usual to measure and assess at the façade of a property. Where a property is 60 m away from the roadside edge, this distance is a large mitigating factor in the truck noise levels experienced.
- 3.51 The Teece dwellings are over 250 m from Bartlett Road and between 60 and 75 m from Ranzau Road at their closest point as shown in the image below.

³³ Satory evidence at 25.

³⁴ Satory evidence at 29.

³⁵ Within dwellings (with windows open) there is a 15 dB reduction in noise.

³⁶ Bronka rebuttal at 2.8.



Image 2: Teece dwellings showing distance from Bartlett Road and Ranzau Road West

- 3.52 Accordingly, even during exception events a very large part of the property's grounds would meet the 55dB L_{Aeq} Waka Kotahi acceptable level. Traffic noise effects are reasonably and adequately mitigated including on the Teece property.
- 3.53 Dr Teece requests that the Applicant is required to install an acoustic fence to ensure that the level of increase in noise levels experienced within the Teece property is no more than 10 dB above existing background noise levels. Presumably this is in relation to traffic noise, as the noise from the asphalt plant is unlikely to be perceptible from the Teece property. Based on the evidence set out above, the Applicant submits this is not required to mitigate traffic noise.
- 3.54 Accordingly, those requests have not been adopted by the Applicant and should not be accepted by the Commissioners.
- 3.55 Dr Teece proposes:
- a. amendments to condition 23 regarding a noise management plan for transportation effects to include a requirement that prohibits the use of compression release engine braking in the vicinity of the Teece property and more generally within the proposed Truck Route Plan. The Applicant accepts that recommendation.
 - b. a new condition requiring the consent holder to comply with the Traffic Management Plan and Noise Management Plan. The Applicant accepts that recommendation.

Notification of exception events

3.56 Council sought a one month period for notification of exception events (Land Use Condition 24A). The Applicant considers that two weeks is more reasonable, as the events are weather dependent and the Applicant is unlikely to be able to predict the weather and consequently its likely evening operations so far in advance.

Traffic safety

3.57 Several submitters raised concerns about compatibility of trucks on Ranzau Road with school children using the crossing to access buildings on the other side of the road. Schools have significant health and safety obligations when using offsite locations,³⁷ in addition to the usual obligations under the Health and Safety at Work Act 2015. It is highly unlikely that students would be allowed to cross Ranzau Road during school hours without supervision. During the time that most students will be crossing (just before and after school), trucks will not use this route. Mr Fon was asked about the safety of using the school crossing without electronic signs. His opinion was that it would be safe as the crossing is in an urban speed limit area (60 km/h) with good sight lines. It is notable that while there are submissions from the Ministry of Education and Ranzau School, neither sought to be heard on the application.

3.58 Following questions at the hearing, the Applicant proposed amendments to the conditions to require use of the routes set out in the Truck Routes Plan.

3.59 No submitters produced expert evidence on traffic effects. Mr Fon agreed with Mr Clark that traffic effects are acceptable.

Water quality

3.60 No submitters called expert evidence in relation to groundwater or surface water quality.

3.61 Comments on the conditions by Ms Barth are premised on the asphalt plant having adverse effects on the aquifer and river. There is no evidence before you that the plant will have adverse effects on groundwater or river water quality. Dr Morrissey's evidence confirms that the proposal will not result in any loss of the values of the Waimea River, and that

³⁷ Education and Training Act 2020, s 117 provides that such use requires approval by the Minister. If agreement is given, a written agreement must be entered into between the board and the Secretary which must set out who is responsible for students welfare and safety.

existing water quality will not change. Storage of hazardous substances at volumes contemplated as part of this proposal is a permitted activity and does not require approval.

- 3.62 Iwi submissions³⁸ initially raised concerns about effects on the mauri and hauora of the Waimea River. As set out in his evidence, Mr du Plessis, on behalf of TBAL, sought to ensure iwi concerns were heard, understood, and responded to. No further information was provided and neither Te Ātiawa nor Ngāti Rārua sought to be heard. On the basis of Dr Morrissey’s evidence that the proposal will not result in any loss of the values of the Waimea River, and that existing water quality will not change, you can be satisfied that there will not be effects of concern on Māori freshwater values and that the proposal will uphold Te Mana o Te Wai.

Natural character

- 3.63 Section 6(e) requires protection of the natural character of rivers and their margins as a matter of national importance, and this provision is reflected in Chapter 8 of the TRMP. Commissioner Mountfort queried the relevance of s 6(e) provision to the proposal.

- 3.64 “Margin” is not defined in the RMA or the TRMP. The Court has held that:³⁹

Margins are likely to be areas beyond the wave action of a lake or extending away from the banks of a river for, depending on topography and other factors, at least 20-50 metres and sometimes more.

- 3.65 The Site is around 150 metres from the river, and sits outside the stopbank. The distance and topography mean that the Site probably falls outside the “margin” of the river.

- 3.66 If the Site is considered to be within the margin, any effects on natural character fall to be considered against the existing environment. The natural character of the Site is highly modified and degraded. The proposal will not reduce its natural character, and in the longer term will enhance its natural character through restoration in accordance with the Site Restoration Plan.

Site restoration

- 3.67 The Applicant put forward a Site Restoration Plan in advance of the hearing. No submitters sought to engage with the details of proposed restoration.

³⁸ Submission 30: Te Atiawa Manawhenua Kite Tau Ihu Trust; Submission 58: Te Rūnanga o Ngāti Rārua and Ngāti Koata Trust

³⁹ *High Country Rosehip Orchards Ltd v Mackenzie DC* [2011] NZEnvC 387 at [140].

3.68 The assertion by Ms Barth that the proposal presents lost opportunities for opening up the site to rehabilitation, recreation and enhancement ignores the restoration aspects of the proposal. The site will be left in a much better state than it is currently. Such reinstatement is relevant under ss 7(c), (f) and (g).⁴⁰

Fear/Perception of effects

3.69 Various submitters referred to perceived effects that they asserted should be taken into account regardless of whether there was an actual or potential effect underlying the perception. For example, Ms Barth: “The visual impact alone of an industrial stack with a highly visible plume of emissions centered over the district is enough to taint the reputation of clean crops from the Waimea plains.”

3.70 It is well established that “fear” (perception) of an effect occurring should not result in resource consent being refused where technical factual evidence indicates the risk of that effect is acceptable.⁴¹

3.71 The visual impact of the stack will be minimal: Mr Greenaway stated that the site could not be seen unaided from the Great Taste Trail bridge across the Wairoa River and he could not locate any other setting on the Great Taste Trail where it would be visible.⁴² Mr Doole’s view was that the visual impact of the stack would be “not more than a minor impact”. The actual and potential discharge effects are also acceptable as described above. No weight should be given to fears of an effect occurring in those circumstances.

3.72 Submitters also sought to rely on the potential for maximum residue level (MRL) testing to result in crops being rejected. However, Mr Garguilo confirmed that these tests are generally for pesticide residues and it is not standard practice to test for the components emitted by the asphalt plant. Mr Sutton also confirmed his MRL tests are for “anything we could be spraying”. Mr Piggott agreed. The possibility of crops being rejected due to MRL tests is speculative, and the potential for this to occur is significantly reduced by the enhanced controls on fugitive emissions that the Applicant has agreed to adopt.

⁴⁰ *Auckland Volcanic Cones Soc Inc v Transit NZ Ltd* [2003] NZMA 54.

⁴¹ Opening submissions at XXX; *Shirley Primary School v Christchurch City Council* [1999] NZRMA 66.

⁴² At 5.8

Alternatives

- 3.73 Some submitters appear to be under the impression that the Applicant must demonstrate that no alternative sites exist. There is no such legal obligation.
- 3.74 Section 88(2)(b) requires an applicant to produce an Assessment of Environmental Effects (AEE) in accordance with Schedule 4. Clause 6(1)(a) of Schedule 4 requires the AEE to include a description of any possible alternative locations or methods for undertaking the activity where it is likely that the activity will result in any significant adverse effect on the environment.⁴³ This proposal will not have significant adverse effects, so Clause 6(1)(a) does not apply. Despite this, the application explained that a number of alternative location sites were discussed and discounted either due to the Richmond Airshed or existing traffic effects on the roading network.
- 3.75 Section 105(1)(c) requires a consent authority to have regard to “any possible alternative methods of discharge, including discharge into any other receiving environment”⁴⁴ where the application is for a discharge permit do something that would contravene s 15 or s 15B of the RMA. The Applicant has provided information to enable you to assess those matters.⁴⁵ Regarding possible alternative methods of discharge, a number of refinements have been made to the method of discharging contaminants from the plant through expert witness conferencing. The reasons for not preferring Mr Iseli’s method of discharging fugitive emissions from the loadout enclosure have also been addressed.

Reverse sensitivity

- 3.76 Counsel for Edens Road and Ors refer to “the matter of reverse sensitivity”⁴⁶ and rely on TRMP provisions relating to reverse sensitivity. No reverse sensitivity effects arise in this case. Reverse sensitivity refers to the vulnerability of an established land use (e.g. a port) to complaint from a newly establishing, more sensitive land use (e.g. adjacent residential areas, where residents may be concerned about port noise). There is no suggestion that the horticulturalists are vulnerable to complaint from the asphalt plant about their activities.

⁴³ Resource Management Act 1991, s 88(2) and Schedule 4 cl 6(1)(a).

⁴⁴ Resource Management Act 1991, s 105(1)(c).

⁴⁵ The nature of the discharges from the asphalt plant and the sensitivity of the receiving environment are addressed by Mr Bender and Dr Morrissey. The reasons for the choosing the Site and the technology to be used are discussed by Mr du Plessis and Miss Bayley.

⁴⁶ Legal submissions at [17].

Internalisation of effects

3.77 Counsel for Edens Road and Ors claims there has been “no real attempt to internalise effects”. That is patently untrue. Measures to minimise stack discharges through use of modern plant, baghouse design, and ongoing refinement represent attempts to internalise effects to the extent practicable. Similarly, measures including sealing areas where trucks will be operating will largely internalise dust effects. This is merely advocacy without a foundation in evidence.

Cumulative effects

3.78 Counsel for Edens Road and Ors also claims there will be cumulative effects from the nearby gravel extraction activity and use of the site for storage of processed gravel. There is an obvious inconsistency in the submitters approach, which takes into account the nearby gravel extraction activity for the purpose of assessing cumulative effects but denies its legal existence for the purpose of assessing the existing environment. No details are provided as to which effects are potentially accumulative. The Applicant submits that claims of cumulative effects are not substantiated:

- a. Traffic movements associated with the asphalt plant will be in addition to traffic movements associated with aggregate from the extraction activity being transported offsite (and this was assessed). However, there will be a reduction in offsite vehicle movements associated with gravel extraction compared to the scenario where aggregate is transported to an asphalt plant in a different location separate from the extraction source.
- b. Dust from traffic movements (from the asphalt plant and the gravel extraction operation) will be reduced in comparison with the status quo, as a result of sealing the unsealed portion of Bartlett Road.

Review clause

3.79 Edens Road and Ors seek a review clause (condition 44) relating to “any adverse effects arise from the activity on boysenberry or field crops within 500m of the plant.”. This

clause is unnecessary, because it is already covered by clause (a).⁴⁷ Clause (a) applies because adverse effects on boysenberry or field crops are not foreseen.

Financial contribution

3.80 Mr Doole confirmed Council's position that a waiver is acceptable given this is an industrial activity that supports development, the product goes to repairing roads and is not contributing to the reasons why a reserve contribution is taken. The Applicant requests that this position is noted in your decision.

Application process issues

3.81 Several submitters asserted that others in the community are not aware of the proposal.

3.82 While matters of process are not relevant to your decision under s 104 RMA, the Applicant wishes to record that:

- a. The application was publicly notified, and was served by post on all residents with frontage along traffic routes. Some submitters gave names of people who they asserted had not been served, but Council records show that those people were served.⁴⁸
- b. Mr du Plessis directly contacted a number of nearby landowners to ensure they were aware of the proposal and to discuss any concerns they might hold.
- c. Mr du Plessis also engaged with Te Tau Ihu iwi in relation to the proposal.
- d. With the exception of Edens Road and Co, no submitters have provided expert evidence and few provided new factual information in response to the application.
- e. The Applicant has sought to respond to issues reasonably raised by submitters, as evidenced by changes to the proposal and consent conditions before, during and after the hearing.

3.83 The application has been processed appropriately by Council, and the Applicant has gone beyond the statutory requirements in engaging with and responding to submitters.

⁴⁷ "...any adverse effect on the environment which may arise from the exercise of the consents that was not foreseen at the time of granting of the consent, and which is therefore more appropriate to deal with at a later stage".

⁴⁸ Mr Doole evidence to hearing.

Monitoring and enforcement

3.84 Similarly, while Council's ability or willingness to monitor and enforce the consent conditions (raised by various submitters including Ms Barth in comments on conditions) are not a relevant matter for you to have regard to under s 104, the Applicant notes that:

- a. Council has experience in monitoring compliance at a previous asphalt plant on Beach Road. Mr Pigott said there had been no odour complaints in relation to that plant, despite it being just across the road from a residential area.
- b. Mr Dixon's evidence regarding Isaac Construction's plant and its compatibility with the conservation works carried out nearby (with no complaints or compliance issues) provides tangible evidence that an asphalt plant can be operated compliantly even in a highly sensitive environment.

4. CONCLUSION

4.1 New Zealand uses asphalt as a surface for roads, carparks and driveways. Production of asphalt has undeniable social and economic benefits.

4.2 Asphalt should be produced as efficiently as practicable, in a manner that minimises any adverse effects on the environment. That is achieved by this proposal, through the selection of state of the art equipment, and an appropriate site:

- a. The Site was selected because it reuses an existing industrial site within the rural environment, it strategically places the asphalt plant next door to its primary source of aggregate, and it is out of the overcapacity Richmond Airshed. It is an appropriate location for this proposal.
- b. The Marini Carbon T Box 130 itself is state of the art asphalt plant technology with best practice emission control. Substantial enhancements to the control of plant emissions, fugitive emissions and dust have been made through the hearing process.
- c. All potential effects of the asphalt plant have been fully assessed, and tested through questions by the Commissioners. All adverse effects are minor at worst, and there will be longer term positive effects from restoration of the site.
- d. The proposal is consistent with all relevant provisions of the TRMP and higher order planning instruments.

- e. The proposal meets the requirements of ss 104, 105 and 107 RMA. Sustainable management is best achieved by granting the consents.

Sally Gepp / Madeleine Wright

Counsel for the Applicant

30/03/2022

Applicant's Consolidated Updated Conditions in response to:
Council response to draft conditions
Submitter response to draft conditions



Council Response 3/3/22

Dr Teece 18/3/22

Edens Road Fruit and ors 18/3/22

Applicants Changes

LAND USE CONDITIONS FOR RM201000

General	
1	<p>The Consent Holder shall ensure that all activities are carried out in general accordance with the information submitted in support of the applications RM201000, by Staig & Smith dated XXXX, further information received XXXX and attached Plans A, B, C dated XXX.</p> <p>In the event that there is any conflict between these documents and any condition of these consents, the conditions prevail.</p>
2	<p>In this resource consent the terms set out in this condition have the meanings specified in this condition:</p> <p>Lease Area means the wider Downer Group NZ Lease Area.</p> <p>Application Site means the sub-lease area for the Consent Holder, including the access ways within the Lease Area.</p> <p>Plant Area means the area within the Application Site that outside of the stopbank.</p>
Construction	
3	<p>The Consent Holder shall prepare an Erosion and Sediment Control Plan (ESCP), to be submitted to Council's Engineering Department for certification for the operation of the Asphalt Plant and the Application Site. The ESCP shall include:</p> <ol style="list-style-type: none">Details of all principles, procedures and practices that will be implemented for erosion, sediment and dust control to minimise the potential for sediment discharge from the site.The design criteria and dimensions of erosion and sediment control structures.A detailed site plan showing the location and timing of all erosion and sediment control structures to be implemented, including controls to remain in place until each stage is fully stabilised.Construction timetable for the erosion and sediment control works and any bulk earthworks involved.Timetable and nature of progressive site rehabilitation and revegetation proposed.Maintenance, monitoring and reporting procedures.Rainfall response and contingency measures including procedures to minimise adverse effects in the event of extreme rainfall events and/or the failure of any key erosion and sediment control structures.
4	<p>The Consent Holder shall remove the existing crushing plant materials to at least 1m below ground level, if not already undertaken by Downer Group NZ Ltd as the lease holder for the Lease Area.</p>
5	<p>The Consent Holder shall undertake Standard Heavy Metal and Polycyclic Aromatic Hydrocarbon benchmark testing of the Plant Area to ascertain soil contamination background levels. Where a visual inspection indicates a previous fuel spill, testing shall also include Total Petroleum Hydrocarbons and BTEX compounds. If any soil contamination is found, it shall be relocated off site to approved facility.</p> <p><u>Advice Note:</u> <u>These obligations are in addition to any obligations within the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soils to Protect Human Health) Regulations 2011.</u></p>
6	<p>The Consent Holder shall realign the stopbank and level and compact the Plant area prior to construction of the MARINI Latin America Carbon T-Box 130 buildings in accordance with Earthworks Consent RM201018.</p>
7	<p>The Consent Holder shall install the MARINI Latin America Carbon T-Box 130, in accordance with manufactures specifications and Building Act requirements.</p>
8	<p>External lighting is to be kept to a minimum and lights directed internally, away from any housing</p>
9	<p>The height of the Bag House and the Silo shall not exceed 11 metres above finished ground level</p>
10	<p>The bag house stack shall not be less than 12.5m above the surrounding ground level and 13m above finished ground level immediately under the bag house.</p>

11	The loadout area shall be enclosed to allow extraction of fugitive odours during vehicle loadouts through a stack not less than 12.5m above ground level. The design of the loadout enclosure shall be certified by a suitably qualified engineer and approved by TDC [appropriate position title] at least 10 days prior to commencement of construction.
12	Any fencing within the berm is to be post and wire.
13	Construction works on the Asphalt Plant authorised by this consent shall only occur between the following hours: a) 0700 – 1800 Monday to Saturday, and b) No work shall occur on Sundays or public holidays.
14	All construction activities shall be carried out so as to comply with NZS6803:1999 Acoustics – Construction Noise standards. To determine compliance, noise shall be measured and assessed in accordance with the provisions of NZS6801:2008 and NZS6802:2008.
	Operation
15	The MARINI Latin America Carbon T-Box 130 shall operate at a maximum rate of 130 tonnes per hour.
16	The Consent Holder shall not exceed a production rate of 400 tonnes per day
	Acoustic barrier
17	The Consent Holder shall construct a 3m high acoustic barrier prior to operation of the MARINI Latin America Carbon T-Box 130, in the location as shown on the Site Plan attached as Plan A RM201000 dated XXXX, being the edge of the Application Site and the Lease Area. a) The barrier shall have a minimum superficial mass of 10kg.m ² . b) The barrier shall be constructed with no gaps or holes. c) The barrier shall be maintained to be acoustically effective for as long as the consent is given effect to.
	Operational Hours and Noise limits
18	The MARINI Latin America Carbon T-Box 130 shall operate to a maximum of 10 hours per 24 hours.
19	The Consent Holder shall not operate the MARINI Latin America Carbon T-Box 130 or load and transport any asphalt from the Application site on Sundays or Public Holidays.
20	The Consent Holder shall operate as follows: Monday-Friday: <ul style="list-style-type: none"> • 6.30am-7am staff arrive • 7am-6.30pm operate MARINI Latin America Carbon T-Box 130, loading trucks, and truck movements transporting asphalt from the Application Site. Saturday <ul style="list-style-type: none"> • 6.30am-7am staff arrive • 7am-6.00pm operate MARINI Latin America Carbon T-Box 130 loading trucks, and truck movements transporting asphalt from the Application Site. <p>Except for 30 days per 12-month period (1 June to 31 May) (“Exception Event”), the Consent Holder may operate:</p> Monday-Friday: <ul style="list-style-type: none"> • 6.30am-7am staff arrive • 7am-9pm operate MARINI Latin America Carbon T-Box 130 • 7am-10pm loading trucks, and truck movements transporting asphalt from the Application Site. Saturday: <ul style="list-style-type: none"> • 6.30am-7am staff arrive • 7am-6.00pm operate MARINI Latin America Carbon T-Box 130 • 7am-10.00pm loading trucks, and truck movements transporting asphalt from the Application Site.

21	<p>The operation of the MARINI Latin America Carbon T-Box 130 and associated activities occurring on Application Site must comply with the times and noise limits set out below, at any position within the notional boundary of noise sensitive receiver sites.</p> <table border="1" data-bbox="276 315 1449 613"> <thead> <tr> <th data-bbox="276 315 715 344">Proposed activity</th> <th data-bbox="715 315 1246 344">Operating hours</th> <th data-bbox="1246 315 1449 344">Noise limits</th> </tr> </thead> <tbody> <tr> <td data-bbox="276 344 715 409">Operation of the MARINI Latin America Carbon T-Box 130</td> <td data-bbox="715 344 1246 409">Monday to Friday 7.00am to 9.00pm Saturday 7.00am to 6.00pm</td> <td data-bbox="1246 344 1449 409">55 dB LAeq</td> </tr> <tr> <td data-bbox="276 409 715 613" rowspan="5">All other activities within the Application Site, including: on site vehicle movements and the loading and unloading of trucks</td> <td data-bbox="715 409 1246 439">Monday to Friday 7.00am to 9.00pm</td> <td data-bbox="1246 409 1449 439">55 dB LAeq</td> </tr> <tr> <td data-bbox="715 439 1246 517">Monday to Friday 6.30am to 7.00am 9.00pm to 10.00pm</td> <td data-bbox="1246 439 1449 517">40 dB LAeq 70 dB LAMAX</td> </tr> <tr> <td data-bbox="715 517 1246 546">Saturday 7.00am to 6.00pm</td> <td data-bbox="1246 517 1449 546">55 dB LAeq</td> </tr> <tr> <td data-bbox="715 546 1246 575">Saturday 6.30am to 7.00am</td> <td data-bbox="1246 546 1449 575">40 dB LAeq</td> </tr> <tr> <td data-bbox="715 575 1246 613">Saturday 6.00pm to 10.00pm</td> <td data-bbox="1246 575 1449 613">70 dB LAMAX</td> </tr> </tbody> </table>	Proposed activity	Operating hours	Noise limits	Operation of the MARINI Latin America Carbon T-Box 130	Monday to Friday 7.00am to 9.00pm Saturday 7.00am to 6.00pm	55 dB LAeq	All other activities within the Application Site, including: on site vehicle movements and the loading and unloading of trucks	Monday to Friday 7.00am to 9.00pm	55 dB LAeq	Monday to Friday 6.30am to 7.00am 9.00pm to 10.00pm	40 dB LAeq 70 dB LAMAX	Saturday 7.00am to 6.00pm	55 dB LAeq	Saturday 6.30am to 7.00am	40 dB LAeq	Saturday 6.00pm to 10.00pm	70 dB LAMAX
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22	To determine compliance with Condition 21 , noise shall be measured and assessed in accordance with the provisions of NZS6801:2008 Acoustics – Measurement of Environmental Sound and NZS6802:2008 Acoustics Environmental Noise.																	
23	<p>The Consent Holder shall prepare a Noise Management Plan (NMP) for transportation effects, and this may be part of the Traffic Management Plan. The purpose of the NMP is to minimise and manage noise from any truck or transportation movements both within and outside of the Application Site. The NMP shall state:</p> <ol style="list-style-type: none"> The number of truck movements allowed per hour. The times during which truck movements to and from the Application site are authorised. The checks that must be undertaken before a truck leaves the site to ensure the truck does not create additional instantaneous noise levels from loose parts or chains when driving on rural roads. The procedures for ensuring that all drivers are aware of the NMP and its requirements. If the Noise Management Plan does not form part of the Traffic Management Plan, it shall be provided to Council for certification that it meets the requirements of these conditions. No use of compression release engine braking systems along the trucking routes identified in Condition 25 and within the Lease Area during TRMP night-time hours. 																	
24A	<p>The public shall be informed of a scheduled Exception Event via the Consent Holder's website. <u>Exceptional events shall be listed on the website at least two working weeks in advance of the scheduled start date, with weather dependency acknowledged if required.</u> This is not a requirement for Exception Events that relate to urgent or emergency works where it is not practicable to inform the public in advance.</p>																	
	Traffic Management																	
24	<p>The Consent Holder shall seal in asphalt the trafficable routes as shown on Plan XXXX dated 25 January 2022 referred to in Condition 1, prior to commissioning the Asphalt Plant.</p> <ol style="list-style-type: none"> the area shown in pink on Bartlett Road, unless the works have already been undertaken by Council as part required by RM210544. the extension of Bartlett Road into the Waimea River Park to the Application Site entrance, being the area shown in green. the trafficable routes within the Application Site, being the areas shown in brown, including the loading area into the filler bins. 																	

25	<p>All trucks to and from the Application Site must use the truck routes set out in Table 1 and Plan XXXXX [Truck Route Plan in application] referred to in Condition 1 except as provided for in a) below:</p> <table border="1" data-bbox="272 315 1434 808"> <thead> <tr> <th data-bbox="272 315 464 349">Destination</th> <th data-bbox="464 315 940 349">In-bound Movement</th> <th data-bbox="940 315 1434 349">Out-bound Movement</th> </tr> </thead> <tbody> <tr> <td data-bbox="272 349 464 501">Western</td> <td data-bbox="464 349 940 501"> Route colour: Orange Description: Pugh Road – right turn onto Ranzau West Road – left turn onto Bartlett Road </td> <td data-bbox="940 349 1434 501"> Route colour: Red Description: Bartlett Road – left turn onto SH 60 </td> </tr> <tr> <td data-bbox="272 501 464 654">Northern</td> <td data-bbox="464 501 940 654"> Route colour: Yellow Description: Pugh Road – right turn onto Ranzau West Road – left turn onto Bartlett Road </td> <td data-bbox="940 501 1434 654"> Route colour: Green Description: Bartlett Road – right turn onto Ranzau West Road – Ranzau Road – left turn onto SH6 </td> </tr> <tr> <td data-bbox="272 654 464 808">Southern</td> <td data-bbox="464 654 940 808"> Route colour: White Description: left turn from SH 6 – Ranzau Road – Ranzau West Road – left turn onto Bartlett Road </td> <td data-bbox="940 654 1434 808"> Route colour: Blue Description: Bartlett Road – right turn onto Ranzau West Road – Ranzau Road – right turn onto SH 6 </td> </tr> </tbody> </table> <p>a) Exceptions:</p> <p>i. Trucks will not use the Ranzau Road route to or from the Application Site between 8.15am-9.15am and 2.45pm-3.25pm. During those times, trucks that would otherwise use Ranzau Road will use the yellow route, unless ii. below also applies. <i>Advice Note:</i> These times are 10 minutes before and after the reduced 40 km/hr speed limit past Ranzau School as defined in the Tasman District Council Speed Bylaws 2020.</p> <p>ii. Where there is a road closure blocking use of one of the routes in Table 1 and Plan X referred to in Condition 1. In that instance, trucks that would use that route may use an alternative route as necessary to reach their destination.</p>	Destination	In-bound Movement	Out-bound Movement	Western	Route colour: Orange Description: Pugh Road – right turn onto Ranzau West Road – left turn onto Bartlett Road	Route colour: Red Description: Bartlett Road – left turn onto SH 60	Northern	Route colour: Yellow Description: Pugh Road – right turn onto Ranzau West Road – left turn onto Bartlett Road	Route colour: Green Description: Bartlett Road – right turn onto Ranzau West Road – Ranzau Road – left turn onto SH6	Southern	Route colour: White Description: left turn from SH 6 – Ranzau Road – Ranzau West Road – left turn onto Bartlett Road	Route colour: Blue Description: Bartlett Road – right turn onto Ranzau West Road – Ranzau Road – right turn onto SH 6
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26	<p>Within the Lease Area and within the Bartlett Road entrance to the Waimea River Park internal truck movements shall be in accordance with Plan [site plan] in Condition 1 and shall observe a speed limit of 10km/hr.</p>												
27	<p>Prior the commissioning of the Asphalt Plant, the Consent Holder shall prepare a Traffic Management Plan to operate under, including inducting of all staff and supply contractors to ensure they are familiar with the requirements. The Traffic Management Plan shall:</p> <ol style="list-style-type: none"> Cover and apply to all trucks moving to and from the Application Site, including trucks collecting asphalt and delivery of aggregate, diesel and bitumen. Identify for each transport route, including the Bartlett Road entrance to the Waimea River Park, where any potential constraints or conflicts with any other road users may be, and the appropriate safety responses; Require that all trucks shall be regularly maintained and serviced, with training of staff to ensure truck parts do not create additional instantaneous noise levels from loose parts or chains when driving on rural roads. Be reviewed and provided to Council for certification and provided to Waka Kotahi NZ Transport Agency for information. 												
27A	<p>The Consent Holder shall at all times comply with the Noise Management Plan and the Traffic Management Plan referred to at Condition 23 and Condition 27 respectively</p>												
28	<p>The consent holder shall maintain a record of truck movements to and from the Application Site and submit annually (no later than 30 June each year) to Council and Waka Kotahi NZ Transport Agency. The record shall include details of the volume and location of the jobs, by which the trucking numbers and routes are able to assessed.</p>												
29	<p>The activity shall not exceed <u>a combined maximum of</u> 80 truck movements to or from the Application Site per day on the legal road network. <i>Advice note:</i> One movement is a trip into the Application Site or a trip out of the Application Site, and includes all delivery trucks as well as asphalt trucks.</p>												
30	<p>The activity shall not exceed <u>a combined maximum of</u> 8 truck movements to or from the Application Site per hour on the legal road network.</p>												

	Hazardous substances [These conditions have been volunteered by the Consent Holder]
31	No more than 5,000 litres of diesel shall be stored in a self-bunded tank that is fit for purpose, with bollards shall be positioned around the perimeter of the tank.
32	No more than 50,000 litres of Bitumen shall be stored in self-bunded transportation trailers.
33	<p>Prior to the diesel tank being filled, the Consent Holder shall prepare an Emergency and Spill Contingency Plan for the Plant Area. The Plan shall include the following as a minimum:</p> <ul style="list-style-type: none"> a) the name, job title and 24-hour telephone number for the person(s) responsible for activating the Plan; b) a description of the facility including the location, size and storage capacity. The description should include a map and/or diagrams; c) a site map of the location. This map is intended to illustrate the facility's relationship to other areas that may be affected by a spill. The map should be to scale and be large enough to include the location of your facility, nearby buildings or facilities, roads, culverts, catch basins, drainage patterns and any nearby bodies of water which could be impacted by a spill or topographic features which would affect access and response; d) the steps to be taken to report, contain, clean up and dispose of contaminants in the case of a spill; e) the means by which the Plan is activated; f) a description of the training provided to employees to respond to a spill; g) an inventory of and the location of response and clean up equipment available to implement the Plan; h) the date the Plan was prepared; i) a listing of local contractors or clean-up specialists; j) a listing of emergency numbers such as fire, ambulance and police; and k) Material Safety Data Sheets (MSDS) for the product.
34	A spill kit shall be provided on-site in areas where hazardous substances are stored. These kits shall be visible, appropriately labelled and readily accessible by all staff. These kits shall contain absorbent materials, clean-up materials and personal protective equipment.
35	<p>If a surface spillage occurs in the Plant Area, the following steps shall be undertaken without delay:</p> <ul style="list-style-type: none"> a) stop the release at source; b) contain the release where possible; c) respond to any emergencies; d) report the release to the appropriate authorities and to the owner; e) assess the degree of contamination; and f) develop a corrective action plan in conjunction with the appropriate authority and clean up the released product. <p><i>Advice Note:</i> Some of these management responses can be taken concurrently. Any accidental spill of bitumen or asphalt is to be scraped up and discharged to an appropriate facility or re-used within the Asphalt process.</p>
36	The tanks and all associated equipment on-site shall be regularly checked to ensure their integrity.
37	The Consent Holder shall keep an accurate written record of all accidents or incidents involving the spillage of hazardous substances and shall supply these to the Council's Team Leader Monitoring & Enforcement on request. Any spillage of hazardous substances where the substance is not collected and removed from site shall be reported immediately (within 24 hours) to the Council's Team Leader Monitoring & Enforcement.
	Flood Hazard
38	The Consent Holder shall not block the stopbank, and shall ensure that it is available to Council's Rivers Engineers at all time for flood monitoring.
39	Should a flood event sufficient to overtop the stopbank be predicted by Council's flood warning network, the Consent Holder shall remove the bitumen and diesel tanks from the site.
	Complaints register
40	The Consent Holder shall maintain a Complaints Register for operation of the Asphalt Plant and truck movements to and from the Application site. The register shall be made available to Council upon request.
	Restoration Works
41	The Consent Holder shall restore the site in accordance with the provided Restoration Plan attached at Plan XXXX dated XX, and as outlined in Earthworks/NES-CS Consent RM201018.

Consent Duration	
42	The term of the consent is: a) 20 years or for the period that extraction and crushing operating on the Council approved lease areas within the Waimea River Park Reserve occurs, whichever is the lesser; and b) Once all extraction and crushing operations cease within the Waimea River Park Reserve, the Consent Holder shall vacate and remediate the Application Site within 6 months.
43	The consent shall lapse 5 years from the date of commencement.
Administration	
44	Pursuant to section 128 of the Resource Management Act the Council may, during the month of August each year, review any or all of the conditions of the consents for all or any of the following purposes: a) dealing with any adverse effect on the environment which may arise from the exercise of the consents that was not foreseen at the time of granting of the consent, and which is therefore more appropriate to deal with at a later stage; or b) to deal with any unforeseen adverse noise issue that might arise as a result of the implementation of these consents; or c) to deal with any unforeseen adverse traffic issue that might arise as a result of the implementation of these consents; or d) requiring the consent holder to adopt the best practicable option to remove or reduce any adverse effect on the environment resulting from the land disturbance.

EARTHWORKS / NES-CS CONDITIONS FOR RM201018

General	
1	The Consent Holder shall ensure that all works are carried out in general accordance with the information submitted in support of the applications RM201000 and RM201018, by Staig & Smith dated XXXX, further information received XXXX and attached Plans A, B, and C dated XXX. In the event that there is any conflict between these documents and any condition of these consents, the conditions prevail.
2	In this resource consent the terms set out in this condition have the meanings specified in this condition: Lease Area means the wider Downer Group NZ Lease Area. Application Site means the sub-lease area for the Consent Holder, including the access ways within the Lease Area. Plant Area means the area within the Application Site that outside of the stopbank.
3	Any levelling and compacting of the Plant Area shall not impact the functionality of the stopbank.
4	The levelling of the Plant Area will include directing stormwater away from areas of potential discharge (tanks storage, conveyor belt and silo) and avoiding runoff across the Lease Area boundary.
5	The Consent Holder shall realign and regrade the stopbank level with the high point of the road and the connecting stopbank, ensuring a 4m wide top to the stopbank.
6	Earthworks are to be undertaken during a forecasted dry period.
7	Earthworks are to be undertaken as quickly as possible to avoid a breach in the stopbank.
Before work	
8	Before undertaking any works authorised by this resource consent, the Consent Holder shall appoint a representative who shall be the Council's principal contact person in regard to matters relating to these resource consents.
9	The Consent Holder shall inform the Council's Team Leader – Monitoring and Enforcement, in writing, of the name and contact details of the following persons: a) The Consent Holder's representative required under Condition 8 , and b) The principal contractor (if not the consent holder representative).
10	Should the person appointed under Condition 8 change during the term of this resource consent, the Consent Holder shall provide the new name and contact details, in writing to the Council's Team Leader – Monitoring and Enforcement within one working day.
11	At least 10 working days prior to the commencement of works, the Consent Holder shall notify the Council's Team Leader – Monitoring and Enforcement in writing, of the date that the works are intended to commence. The Consent Holder shall arrange for a site meeting between the Consent Holder's principal contractor and the Council's assigned monitoring officer, which shall be held non site prior to any works commencing. No works shall commence until the Council's assigned monitoring officer has completed the site meeting.
12	The Consent Holder shall submit to the Council's River Engineer a report prepared by an appropriately qualified professional engineer designing the realignment of the stopbank for certification and other earthworks within the Plant Area for the acoustic barrier and the MARINI Latin America Carbon T-Box 130. The realignment of the stopbank shall anchor in with the height of the existing stopbank under the end of Bartlett Road to the south and the height of the stopbank where it re-joins. No works shall be undertaken until the plan has been certified by Council's River Engineer. The certification shall be given if the proposed works do not put the existing stopbank at risk and the result of the works will at least maintain the design capacity of the stopbank. <i>Advice Note:</i> Once approved by Council, a copy is to be sent to Te Ātiawa Manawhenua Kt Te Tau Ihu Trust, Te Runanga o Ngāti Rārua, Ngāti Koata, Ngāti Kuia and Ngāti Apa ki te Rā Tō for information.
13	At least 10 working days prior to the commencement of works, the Consent Holder shall prepare and submit an Erosion and Sediment Control Plan (ESCP) to the Council's Team Leader – Monitoring and Enforcement for certification. No works shall be undertaken until the ESCP has been certified by Council's Team Leader – Monitoring and Enforcement. <i>Advice note:</i> Certification of the ESCP is in the nature of certifying that adoption of the ESCP will result in compliance with the conditions of this consent. Once approved by Council, a copy is to be sent to Te Atiawa Manawhenua Kt Te Tau Ihu Trust and Ngāti Kuia and Ngāti Apa ki te Rā Tō for information.

14	<p>The following shall apply in respect of Condition 13:</p> <p>a) The Consent Holder may commence the activities in accordance with the submitted ESCP 15 working days after their submission, unless the Council advises the Consent Holder in writing that it refuses to certify them on the grounds that it fails to meet the requirements of the condition and gives reasons for its decision, and</p> <p>b) Should the Council refuse to certify the ESCP, the Consent Holder shall submit a revised plan to the Council for certification and (a) shall apply for any resubmitted plan.</p>
15	<p>The ESCP required by Condition 13 shall set out the practices and procedures to be adopted in order that compliance with the conditions of this consent is achieved. The ESCP shall include as a minimum:</p> <p>a) An aerial image of the site detailing, as a minimum, the location of:</p> <ul style="list-style-type: none"> i. Property boundaries, ii. Surface waterbodies, iii. Roads, iv. All erosion, sediment and dust control measures, and v. Stormwater management measures and the direction of stormwater flows <p>b) Detailed drawings and specifications of all designated erosion and sediment control structures,</p> <p>c) Construction timetable for the erosion and sediment control works, bulk earthworks, re-stabilisation of exposed ground and any planting,</p> <p>d) Maintenance, monitoring and reporting procedures,</p> <p>e) Rainfall response and contingency measures including procedures to minimise adverse effects in the event of extreme rainfall events and/or the failure of any key erosion and sediment control structures, and</p> <p>f) Hydrocarbon spill response and contingency measures.</p> <p>Any changes to the ESCP shall be confirmed in writing by the Consent Holder and authorised by Council's Team Leader – Monitoring and Enforcement and shall not be implemented until notified of the authorisation.</p>
16	<p>Prior to undertaking earthworks authorised by this consent, the Consent Holder shall ensure that all personnel working on the site are made aware of, and have access to the following:</p> <p>a) The conditions of this resource consent, and</p> <p>b) The certified ESCP as required by Condition 13.</p>
	Cultural
17	<p>The Consent Holder shall undertake all works under an Archaeological Accidental Discovery Protocol. In the event, a Māori Archaeological site is found all works shall cease and the Consent Holder shall advise Te Ātiawa Manawhenua Kt Te Tau Ihu Trust, Te Runanga o Ngāti Rārua, Ngāti Koata, and Ngāti Kuia and Ngāti Apa ki te Rā Tō immediately of the discovery.</p> <p><i>Advice Note:</i></p> <p>For any archaeological discovery, the Consent Holder shall consult with the Central Regional Office of Heritage New Zealand Pouhere Taonga and shall not recommence works in the area of the discovery until the relevant Heritage New Zealand approvals to damage, destroy or modify such sites have been obtained.</p>
18	<p>At least 5 days before earthworks begin, the Consent Holder shall invite Te Ātiawa Manawhenua Kt Te Tau Ihu Trust, Te Runanga o Ngāti Rārua, Ngāti Koata, and Ngāti Kuia and Ngāti Apa ki te Rā Tō to nominate an iwi monitor to be present when earthworks are occurring to realign the stopbank and re-level the Plant Area.</p> <p><i>Advice note:</i></p> <p>An iwi monitor is not required at the end of the project when the application site is being re-earthworked to remove the access ramps over the stopbank and relevel the Asphalt Plant site, as the works will be occurring on a previously monitored modified site</p>
	During Earthworks
19	<p>Work authorised by this consent shall only occur between the following hours:</p> <p>a) 0700 – 1800 Monday to Saturday, and</p> <p>b) No work shall occur on Sundays or public holidays.</p>
20	<p>All activities shall be carried out so as to comply with NZS6803:1999 Acoustics – Construction Noise standards. To determine compliance, noise shall be measured and assessed in accordance with the provisions of NZS6801:2008 Acoustics – Measurement of Environmental Sound and NZS6802:2008 Acoustics Environmental Noise.</p>
21	<p>All erosion, sediment and dust control measures shall be installed prior to the commencement of any disturbance or discharge to land, and shall be maintained until all disturbed areas are stabilised and / or revegetated</p>

22	<p>The consent holder shall adopt the best practical measures to prevent the movement of disturbed soil or vegetation into surface water or flood waters impacting on the site. These measures may include, but are not restricted to:</p> <ol style="list-style-type: none"> working during periods of fine weather when the likelihood of erosion and sedimentation will be less and risk of flooding is low; stormwater run-off controls around the area of disturbance, such as filter fences, cut-offs, culverts, and water tables to prevent scour, gullyng or other erosion; providing undisturbed buffers between the land disturbance and any water body along with filter fences or other means of intercepting stormwater run-off; sediment traps adequate to contain and treat sediment-laden run-off water; and any other measures appropriate to the nature and scale of the land disturbance.
23	<p>If during the works fill or excavated soil needs to be temporarily stockpiled on-site, then the consent holder shall ensure stockpiles are:</p> <ol style="list-style-type: none"> kept tidy and with a stable slope; and stored in a manner that minimises any potential discharge of material into the surrounding environment.
24	<p>The Consent Holder's operations shall not give rise to any discharge of contaminants (eg. Dust), at or beyond the site boundary, which is noxious, dangerous, offensive or objectionable. Dust control measures shall be available and used on site, in accordance with the certified ESCP, to ensure compliance with this condition.</p>
25	<p>The Consent Holder shall, subject to any unforeseen weather or site remediation, complete the earthworks to relocate the Stopbank and level the Plant Area within six months of commencing earthworks.</p>
	<p>Administration</p>
26	<p>Pursuant to section 128 of the Resource Management Act the Council may, during the month of August each year, review any or all of the conditions of the consents for all or any of the following purposes:</p> <ol style="list-style-type: none"> dealing with any adverse effect on the environment which may arise from the exercise of the consents that was not foreseen at the time of granting of the consent, and which is therefore more appropriate to deal with at a later stage; or to deal with any unforeseen adverse noise issue that might arise as a result of the implementation of these consents; or requiring the consent holder to adopt the best practicable option to remove or reduce any adverse effect on the environment resulting from the land disturbance; or to comply with any national environmental standards made under the Resource Management Act 1991.
	<p>Duration</p>
27	<p>The term of the consent is:</p> <ol style="list-style-type: none"> 20 years or for the period that extraction and crushing operating on the Council approved lease areas within the Waimea River Park Reserve occurs, whichever is the lesser; and Once all extraction and crushing operations cease within the Waimea River Park Reserve, the Consent Holder shall vacate and remediate the Application Site within 6 months.
28	<p>These consents shall lapse 5 years from the date of commencement.</p>
	<p>NES-CS</p>
29	<p>All works undertaken in association with the Application Site, including removal of the gravel crusher, realigning the stop bank and levelling the Plant Area, as well as restoration earthworks at the end of the consent shall be undertaken accordance with an Accidental Discovery Plan (ADP) for the Application Site.</p>

30	<p>After removing the gravel crusher and associated infrastructure, the Consent Holder will undertake Benchmark analytical testing of the Application Site prior to installing the Asphalt Plant, which shall involve sampling in a grid pattern across the Application Site, and analysis of each sample for:</p> <p>a) Standard Heavy Metals:</p> <ul style="list-style-type: none"> • Arsenic • Cadmium • Chromium • Copper • Lead • Nickel • Zinc <p>b) Polycyclic aromatic hydrocarbons</p> <p>c) Target Total Petroleum Hydrocarbons and BTEX compounds where visual inspection indicates a previous fuel spill.</p> <p><i>Advice Note:</i> <u>These obligations are in addition to any obligations contained within the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soils to Protect Human Health) Regulations 2011.</u></p>
31	<p>At the end of the consent, upon removal of the Asphalt Plant and associated infrastructure, the Consent Holder will undertake analytical testing of the Application Site in accordance with condition 30. If testing shows changes to background testing, the Applicant shall remediate the Application Site to Benchmark levels.</p>
32	<p>The Consent Holder shall remove the access ramps over the stopbank, and place this material within the Lease Area and shall topsoil and plant with appropriate vegetation in accordance with the provided Restoration Plan attached at Plan XX dated XX.</p>

AIR DISCHARGE CONDITIONS FOR RM201002

General	
1	The discharge shall only be contaminants to air from the manufacture of asphaltic concrete from the MARINI Latin America Carbon T-Box 130 plant and ancillary activities at Downer Group NZ Ltd's old crushing plant at 272 Bartlett Road, Appleby. The application site located within Lot 1 DP 368439, attached Plan A RM201002, dated XXXX, which forms part of this consent.
2	In this resource consent the terms set out in this condition have the meanings specified in this condition: Lease Area means the wider Downer Lease Area. Application Site means the sub-lease area for the Consent Holder, including the access ways within the Lease Area. Plant Area means the area outside of the stopbank.
3	The discharge shall only be the following: a) Combustion by-products from the external combustion of diesel with a total net heat output of 13 megawatts; b) Organic contaminants (including odorous contaminants) from the operation of an asphalt plant capable of producing up to 130 tonnes per hour of asphalt and associated heated storage and handling of bitumen and asphalt; c) Dust from the handling and storage of aggregate and bulk solid materials associated with asphalt manufacture. d) Occur a maximum of 10 hours on any day.
Limits	
4	The discharge shall not cause odour or particulate matter that is offensive or objectionable beyond the boundary of the Application site. <i>Advice Note</i> Boundary of the site is defined as outside of the Application Site and acoustic fence. It is not the parcel boundary for the River Park.
5	The concentration of filterable and condensable PM ₁₀ particulate matter collectively in the baghouse stack discharge shall not exceed 30 milligrams of PM ₁₀ particulate per cubic metre of air when adjusted to 0 degrees Celsius, 101.3 kilopascals on a dry gas basis.
6	The minimum baghouse stack exit velocity shall be 10 metres per second.
7	The emission rate of PM ₁₀ , consisting of both filterable and condensable particulate matter collectively, from the baghouse stack shall not exceed 0.93 kilograms of PM ₁₀ particulate per hour (0.26g/s).
8	The temperature of asphalt product exiting the asphalt mixing mill or drum shall not exceed 175 degrees Celsius at any time.
9	The burner shall be maintained and correctly adjusted to avoid any visible smoke emissions from the baghouse stack. <i>Advice note:</i> This condition excludes emissions of steam/water vapour from the stack.
Emissions control and pollution abatement measures	
10	No part of the process associated with a discharge to air, as described in the application, shall be operated without the associated emissions control equipment being fully operational and functioning correctly.
11	The asphalt plant shall be a MARINI Latin America Carbon T-Box 130.
12	While in operation, drying and combustion gases from the mixing drum shall be extracted and directed to a baghouse fabric filtration system. Exhaust from the bag filter shall be discharged via a stack that is not less than 12.5m above the surrounding ground level and 13m above finished ground level immediately under the bag house.
13	The asphalt loadout area shall be fully enclosed and all emissions during loadout shall be directed to a stack at a height of not less than 12.5 metres above the surrounding ground level. The extraction system shall be designed to maintain negative pressure at all times within the enclosure, achieving an efflux velocity of at least 10m/s from the emission stack. The enclosure shall be fitted with rapid opening doors that are opened only for the purpose of truck entry and exit. The consent holder shall submit the plan of the load out enclosure area design, which must be peer reviewed by a suitably qualified Engineer, for approval by Council's Team Leader Monitoring and Enforcement at least 10 days prior to construction commencing.

14	Loadouts from the hot mix storage (silo) to trucks must occur with the roller doors closed and the extraction system fully operational. The cover may be secured either inside or outside the loadout area but must be secured before the truck exits the Application Site.
15	Discharges from both stacks shall be directed vertically into the air and shall not be impeded by any obstruction above the stacks that decreases the vertical velocities below that which would occur in the absence of such obstructions.
16	All measures shall be taken to ensure that fugitive emissions from the extracted enclosures and equipment, ducting and emissions control equipment are kept to a practicable minimum and all measures shall be taken to ensure the MARINI Latin America Carbon T-Box 130 operates as designed.
17	Activated Carbon Filters shall be fitted on the bitumen tank vents to prevent fugitive odour discharges.
18	The Filler bins shall be fitted with lids.
19	The conveyor(s) or method of conveyance of asphalt product from the asphalt mixing mill or drum to product silos shall be enclosed. While in operation, ventilation air from the enclosed conveyor(s) or method of conveyance shall be extracted and directed to the aggregate drying drum and incinerated as part of burner combustion air.
20	<p>The discharge shall occur in accordance with an Air Quality Management Plan (AQMP). The AQMP shall be submitted to the Council's Team Leader Monitoring & Enforcement for certification that it meets the requirements of these conditions, prior to the exercise of this consent. The discharge shall not commence until written notice of certification of the AQMP by the Council is received. The AQMP may incorporate a series of monitoring, management and operational procedures, methodologies and contingency plans, and together shall accurately record all data required to comply with the conditions of this consent. The AQMP shall include all measures necessary to achieve compliance with the conditions of consent, including but not limited to, the following:</p> <ol style="list-style-type: none"> a) Identification of all fugitive and point sources of discharges of contaminants into air, including a map showing the location of each source; b) Procedures to minimise discharges of contaminants into air, including details of the inspection, maintenance, monitoring and contingency procedures in place for all emissions control equipment at the Application Site; c) Details of management and monitoring practices in place to minimise discharges of contaminants into air, including dust and odour. These measures shall include <ol style="list-style-type: none"> i. Minimising the heights of exposed stockpiles and drop heights; ii. Daily visual monitoring of potential fugitive dust emissions. iii. Sweeping, suction cleaning or use of other housekeeping measures to regularly remove accumulated bulk solid materials on yard or hardstand areas; iv. Using water and/or dust suppressants on disturbed surfaces, internal trafficable routes and stockpiles when required; v. Limiting vehicle speeds within the Lease Area and within the Bartlett Road entrance to the Waimea River Park to 10km/hr. d) Details of methods and procedures for measuring operating parameters relating to discharges to air, including the monitoring required by Conditions 23 to 26; e) Where appropriate, the operating parameters and manufacturer's instructions for all emissions control equipment. f) Procedures for the monitoring of dust and odour, including details of inspection procedures, recording requirements and contingency measures; g) The identification of staff responsibilities; h) The procedures for the receipt, recording and handling of air quality complaints received; and i) Details of the frequency and scope of the regular checks to be performance on emissions control equipment.
	Maintenance and Servicing
21	The Asphalt Plant and bitumen heater burners shall be serviced at least once every year by a person competent in the servicing of such devices. This servicing shall include ash and carbon deposit removal, and adjustment if necessary of the fuel to air ratio to prevent visible smoke and particulate matter emissions. Service reports shall be prepared and retained and copies shall be provided to the Council's Team Leader Monitoring & Enforcement during the month of June each year or on request.

22	The bag filter shall be pro-actively managed and maintained in accordance with the manufacturer's recommendations in order to minimise the discharge of particulate matter. This includes, but is not limited to, maintaining sufficient inventory to ensure bags are changed out before, or immediately after, any tears or holes develop. Records of the date and type of maintenance and inspections carried shall be kept and made available to the Council on request.
	Monitoring
23	The discharge of both filterable and condensable particulate matter discharged from the asphalt plant stack shall be measured within three months of the date of exercise of this consent and thereafter at least once every 12 months. a) Measurements shall occur when the asphalt plant is operating at greater than 50% of maximum production capacity. b) The method of sampling and analysis of filterable particulate matter shall be ISO 9096:2003, ASTM D3685-98, USEPA Methods 5 or 17, or equivalent methods. c) The method of sampling and analysis of condensable particulate matter shall be USEPA Method 202 or an equivalent method. d) The laboratory performing the testing and analysis shall be accredited under NZ/ISO/IEC 17025 to undertake the method used at the time of the test. e) Total particulate sampling results (the sum of filterable and condensable particulate measured) shall be reported as a concentration expressed as milligrams per cubic metre adjusted to 0 degrees Celsius 101.3 kilopascals, and on a dry gas basis, and as a mass emission rate expressed as kilograms per hour. The results shall include a description of the method used, the approximate rate of asphalt production during testing and any assumptions made. f) The consent holder shall provide test results to the Council's Team Leader Monitoring and Enforcement, within 30 working days of sampling.
24	Continuous monitoring of differential pressure or an alternative method with the prior written approval of the Council's Team Leader Monitoring and Enforcement shall be employed to identify failure of filter element(s) within the baghouse. The monitoring system shall be fitted with an alarm in the case of element failure.
25	The temperature of asphalt product exiting the asphalt mixing mill or drum shall be continuously monitored and the monitoring system shall be fitted with an alarm in the case of exceedance of the temperature specified in condition 8 .
26	The consent holder shall review and (if necessary) update the AQMP required in Condition 20 at least once every year for the term of this consent, to ensure that any review takes account of the monitoring for the previous year, and that a review is triggered in the event of any verified breach of condition 4 . Any proposed changes to the AQMP shall be submitted to Council's Team Lead Monitoring & Enforcement for certification within one month of the consent holder's review. The AQMP shall be certified if it gives effect to the conditions of consent and aligns with good practice.
	Records and Reporting
27	A record of complaints relating to discharges of contaminants to air from the Application site including odour or particulate matter or dust, shall be maintained and shall include: a) Location of where the odour or particulate matter or dust was detected by the complainant; b) The date and time when the odour or particulate matter or dust was detected; c) The date and time when the odour or dust complaint was received; d) The name, telephone number and address of the complainant; e) A detailed description of the odour or dust incident taking into account the frequency, intensity, duration, offensiveness and location; f) A description of the wind speed and wind direction when the odour or particulate matter or dust was detected by the complainant; g) Details of key operating parameters at the time of the odour incident; h) The most likely cause of the odour or particulate matter or dust detected; and i) Any corrective action undertaken by the consent holder to avoid, remedy or mitigate the odour or particulate matter or dust detected by the complainant. j) This record shall be provided to the Council on request.
	Duration
28	The term of the consent is: a) 20 years or for the period that extraction and crushing operating on the Council approved lease areas within the Waimea River Park Reserve occurs, whichever is the lesser; and b) Once all extraction and crushing operations cease within the Waimea River Park Reserve, the Consent Holder shall vacate and remediate the Application Site within 6 months.

29	This consent shall lapse 5 years from the date of commencement.
	Administration
30	<p>Pursuant to section 128 of the Resource Management Act the Council may, during the month of August each year, review any or all of the conditions of the consents for all or any of the following purposes:</p> <ul style="list-style-type: none"> a) dealing with any adverse effect on the environment which may arise from the exercise of the consents that was not foreseen at the time of granting of the consent, and which is therefore more appropriate to deal with at a later stage; or b) requiring the consent holder to adopt the best practicable option to remove or reduce any adverse effect on the environment resulting from the land disturbance, or c) Requiring further mitigation if particulate matter emission test results exceed the emission limit specified by condition 6 or if a breach of Condition 4 occurs at or beyond the property boundary.

30/03/2022
Applicant's Conditions in response to:
Council response to draft conditions
Submitter response to draft conditions



LAND USE CONDITIONS FOR RM201000

	Applicant's Conditions Submitted to Hearing Committee 25/02/22	Council Response 3/3/22	Dr Teece 18/3/22	Barth	Cartwright	Edens Road Fruit and ors	Applicants Response to Comments on Conditions
	General			No specific comments on draft conditions	No Specific comments of draft conditions		
1	The Consent Holder shall ensure that all activities are carried out in general accordance with the information submitted in support of the applications RM201000, by Staig & Smith dated XXXX, further information received XXXX and attached Plans A, B, C dated XXX. In the event that there is any conflict between these documents and any condition of these consents, the conditions prevail.						
2	In this resource consent the terms set out in this condition have the meanings specified in this condition: Lease Area means the wider Downer Group NZ Lease Area. Application Site means the sub-lease area for the Consent Holder, including the access ways within the Lease Area. Plant Area means the area within the Application Site that outside of the stopbank.						
	Construction						
3	The Consent Holder shall prepare an Erosion and Sediment Control Plan (ESCP), to be submitted to Council's Engineering Department for certification for the operation of the Asphalt Plant and the Application Site. The ESCP shall include: a) Details of all principles, procedures and practices that will be implemented for erosion, sediment and dust control to minimise the potential for sediment discharge from the site. b) The design criteria and dimensions of erosion and sediment control structures.						

	<p>c) A detailed site plan showing the location and timing of all erosion and sediment control structures to be implemented, including controls to remain in place until each stage is fully stabilised.</p> <p>d) Construction timetable for the erosion and sediment control works and any bulk earthworks involved.</p> <p>e) Timetable and nature of progressive site rehabilitation and revegetation proposed.</p> <p>f) Maintenance, monitoring and reporting procedures.</p> <p>g) Rainfall response and contingency measures including procedures to minimise adverse effects in the event of extreme rainfall events and/or the failure of any key erosion and sediment control structures.</p>						
4	The Consent Holder shall remove the existing crushing plant materials to at least 1m below ground level, if not already undertaken by Downer Group NZ Ltd as the lease holder for the Lease Area.						
5	<p>The Consent Holder shall undertake Standard Heavy Metal and Polycyclic Aromatic Hydrocarbon benchmark testing of the Plant Area to ascertain soil contamination background levels. Where a visual inspection indicates a previous fuel spill, testing shall also include Total Petroleum Hydrocarbons and BTEX compounds. If any soil contamination is found, it shall be relocated off site to approved facility.</p> <p><i>Advice note:</i> It is acknowledged that removal of any contaminated soils off site to approved facility is the responsibility of the person who caused the contamination, ie Downer Group NZ Ltd.</p>	<p><i>PD - I'm not convinced that who caused the contaminated soils is of any significance or relevance to the situation? If they want to use the consent they need to ensure the soils are dealt with as necessary. And maybe the contamination preceded Downer's use of the site?</i></p> <p>Delete Advice Note</p> <p><i>Advice note:</i> It is acknowledged that removal of any contaminated soils off site to approved facility is the responsibility of the person who caused the contamination, ie Downer Group NZ Ltd.</p>				<p>Agree with TDC. The NES-CS apply when 'a person wants to do an activity' (see Reg 5 and Reg 7(b)). Arrangements with Downer need to be private.</p> <p>Add new Advice note:</p> <p><u>Advice Note:</u> <u>These obligations are in addition to any obligations within the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soils to Protect Human Health) Regulations 2011.</u></p>	<p>Accept deletion of Advice Note as suggested by Council and Eden Fruit and ors.</p> <p>Accept inclusion of replacement Advice Note from Eden Fruit and Ors</p>
6	The Consent Holder shall realign the stopbank and level and compact the Plant area prior to construction of the MARINI Latin America Carbon T-Box 130 buildings in accordance with Earthworks Consent RM201018.						

7	The Consent Holder shall install the MARINI Latin America Carbon T-Box 130, in accordance with manufactures specifications and Building Act requirements.						
8	External lighting is to be kept to a minimum and lights directed internally, away from any housing						
9	The height of the Bag House and the Silo shall not exceed 11 metres above finished ground level						
10	The bag house stack shall not be less than 12.5m above the surrounding ground level and 13m above finished ground level immediately under the bag house.						
11	The loadout area shall be enclosed to allow extraction of fugitive odours during vehicle loadouts through a stack not less than 12.5m above ground level. The design of the loadout enclosure shall be certified by a suitably qualified engineer and approved by TDC [appropriate position title] at least 10 days prior to commencement of construction.						
12	Any fencing within the berm is to be post and wire.						
13	Construction works on the Asphalt Plant authorised by this consent shall only occur between the following hours: a) 0700 – 1800 Monday to Saturday, and b) No work shall occur on Sundays or public holidays.						
14	All construction activities shall be carried out so as to comply with NZS6803:1999 Acoustics – Construction Noise standards. To determine compliance, noise shall be measured and assessed in accordance with the provisions of NZS6801:2008 and NZS6802:2008.						
	Operation						
15	The MARINI Latin America Carbon T-Box 130 shall operate at a maximum rate of 130 tonnes per hour.						
16	The Consent Holder shall not exceed a production rate of 400 tonnes per day						
	Acoustic barrier		Add and acoustic fence				Not required

17	<p>The Consent Holder shall construct a 3m high acoustic barrier prior to operation of the MARINI Latin America Carbon T-Box 130, in the location as shown on the Site Plan attached as Plan A RM201000 dated XXXX, being the edge of the Application Site and the Lease Area.</p> <p>a) The barrier shall have a minimum superficial mass of 10kg.m².</p> <p>b) The barrier shall be constructed with no gaps or holes.</p> <p>c) The barrier shall be maintained to be acoustically effective for as long as the consent is given effect to.</p>						
17A			<p>Add new condition</p> <p><u>The Consent Holder shall construct an acoustic fence to ensure that the level of increase in noise levels arising from truck movements experienced within the Teece property at 121 Ranzau Road West is no more than 10 dB above existing ambient noise levels.</u></p> <p>a) <u>The acoustic fence shall designed by a suitably qualified acoustic engineer and be constructed with no gaps or holes</u></p> <p>b) <u>Following construction the acoustic fence shall be certified by a suitably qualified acoustic engineer as being built in accordance with the design referred to in clause (a) above.</u></p> <p>c) <u>The acoustic fence shall be maintained to be acoustically effective for as long as the consent is given effect to.</u></p>				<p>The works requested by Dr Teece are outside of the application and subject to third party.</p> <p>Dr Bronka does not consider an acoustic fence on the Teece property is justified on the basis of effects.</p> <p>Do not accept condition as requested.</p>
	Operational Hours and Noise limits						
18	The MARINI Latin America Carbon T-Box 130 shall operate to a maximum of 10 hours per 24 hours.						
19	The Consent Holder shall not operate the MARINI Latin America Carbon T-Box 130 or load and transport any asphalt from the Application site on Sundays or Public Holidays.						
20	The Consent Holder shall operate as follows:		Amend hours				Do not accept Dr Teece's changes to hours which are

	<p>Monday-Friday:</p> <ul style="list-style-type: none"> 6.30am-7am staff arrive 7am-6.30pm operate MARINI Latin America Carbon T-Box 130, loading trucks, and truck movements transporting asphalt from the Application Site. <p>Saturday</p> <ul style="list-style-type: none"> 6.30am-7am staff arrive 7am-6.00pm operate MARINI Latin America Carbon T-Box 130 loading trucks, and truck movements transporting asphalt from the Application Site. <p>Except for 30 days per 12-month period (1 June to 31 May) ("Exception Event"), the Consent Holder may operate:</p> <p>Monday-Friday:</p> <ul style="list-style-type: none"> 6.30am-7am staff arrive 7am-9pm operate MARINI Latin America Carbon T-Box 130 7am-10pm loading trucks, and truck movements transporting asphalt from the Application Site. <p>Saturday:</p> <ul style="list-style-type: none"> 6.30am-7am staff arrive 7am-6.00pm operate MARINI Latin America Carbon T-Box 130 7am-10.00pm loading trucks, and truck movements transporting asphalt from the Application Site. 		<p>The Consent Holder shall operate as follows:</p> <p>Monday-Friday:</p> <ul style="list-style-type: none"> 6.30am-7am staff arrive 7am-6.30pm<u>5.30pm</u> operate MARINI Latin America Carbon T-Box 130, loading trucks, and truck movements transporting asphalt from the Application Site. <p>Saturday</p> <ul style="list-style-type: none"> 6.30am-7am staff arrive 7am-6.00pm<u>12.00pm</u> operate MARINI Latin America Carbon T-Box 130 loading trucks, and truck movements transporting asphalt from the Application Site. <p>Either:</p> <ul style="list-style-type: none"> limit Exception events to 12 days finishing at 9pm on weekdays and 6pm Saturdays, or delete Exception events 				<p>more restrictive than daytime hours in TRMP.</p> <p>The proposed hours suggested for Exception Events are within the permitted noise standards and the reduced Exception Events do not provide enough ability for response to night-time or emergency response events.</p> <p>Do not accept Dr Teece's changes.</p>
21	<p>The operation of the MARINI Latin America Carbon T-Box 130 and associated activities occurring on Application Site must comply with the times and noise limits set out below, at any position within the notional boundary of noise sensitive receiver sites.</p>						
22	<p>To determine compliance with Condition 21, noise shall be</p>						

Proposed activity	Operating hours	Noise limits	
Operation of the MARINI Latin America Carbon T-Box 130	Monday to Friday	7.00am to 9.00pm	55 dB LAeq
	Saturday	7.00am to 6.00pm	
All other activities within the Application Site, including: on site vehicle movements and the loading and unloading of trucks	Monday to Friday	7.00am to 9.00pm	55 dB LAeq
	Monday to Friday	6.30am to 7.00am	40 dB LAeq
		9.00pm to 10.00pm	70 dB LAMAX
	Saturday	7.00am to 6.00pm	55 dB LAeq
Saturday	6.30am to 7.00am	40 dB LAeq	70 dB LAMAX
	6.00pm to 10.00pm		

	measured and assessed in accordance with the provisions of NZS6801:2008 Acoustics – Measurement of Environmental Sound and NZS6802:2008 Acoustics Environmental Noise.						
23	<p>The Consent Holder shall prepare a Noise Management Plan (NMP) for transportation effects, and this may be part of the Traffic Management Plan. The purpose of the NMP is to minimise and manage noise from any truck or transportation movements both within and outside of the Application Site. The NMP shall state:</p> <p>a) The number of truck movements allowed per hour.</p> <p>b) The times during which truck movements to and from the Application site are authorised.</p> <p>c) The checks that must be undertaken before a truck leaves the site to ensure the truck does not create additional instantaneous noise levels from loose parts or chains when driving on rural roads.</p> <p>d) The procedures for ensuring that all drivers are aware of the NMP and its requirements.</p> <p>e) If the Noise Management Plan does not form part of the Traffic Management Plan, it shall be provided to Council for certification that it meets the requirements of these conditions.</p>		<p>Add new clause</p> <p>f) <u>That the use of compression release engine braking systems in the vicinity of the Teece property at 121 Ranzau Road West and more generally within the proposed Truck Route Plan XXX is prohibited.</u></p>				<p>Accept the comment about engine braking, but amend to reflect nighttime hours.</p> <p>f) <u>No use of compression release engine braking systems along the trucking routes identified in Condition 25 and within the Lease Area during TRMP night-time hours.</u></p>
24A	<p>The public shall be informed of a scheduled Exception Event via the Consent Holder's website. This is not a requirement for Exception Events that relate to urgent or emergency works where it is not practicable to inform the public in advance.</p>	<p><u>Require advanced notice</u></p> <p>The public shall be informed of a scheduled Exception Event via the Consent Holder's website. <u>Exceptional events shall be listed on the website at least one month in advance of the scheduled start date, with weather dependency acknowledged if required</u> This is not a requirement for Exception Events that relate to urgent or emergency works where it is not practicable to inform the public in advance.</p>					<p>Not sure why TDC require such an advanced notice of works occurring. Two working week advanced warning is considered more acceptable as is more easily able to reflect any changes as a result of weather.</p> <p>The public shall be informed of a scheduled Exception Event via the Consent Holder's website. <u>Exceptional events shall be listed on the website at least two working weeks in advance of the scheduled start date with</u></p>

							weather dependency acknowledged if required. This is not a requirement for Exception Events that relate to urgent or emergency works where it is not practicable to inform the public in advance.											
	Traffic Management																	
24	<p>The Consent Holder shall seal in asphalt the trafficable routes as shown on Plan XXXX dated 25 January 2022 referred to in Condition 1, prior to commissioning the Asphalt Plant.</p> <p>a) the area shown in pink on Bartlett Road, unless the works have already been undertaken by Council as part required by RM210544.</p> <p>b) the extension of Bartlett Road into the Waimea River Park to the Application Site entrance, being the area shown in green.</p> <p>c) the trafficable routes within the Application Site, being the areas shown in brown, including the loading area into the filler bins.</p>																	
25	<p>All trucks to and from the Application Site must use the truck routes set out in Table 1 and Plan XXXXX [Truck Route Plan in application] referred to in Condition 1 except as provided for in a) below:</p> <table border="1" data-bbox="332 1270 1415 1738"> <thead> <tr> <th>Destination</th> <th>In-bound Movement</th> <th>Out-bound Movement</th> </tr> </thead> <tbody> <tr> <td>Western</td> <td>Route colour: Orange Description: Pugh Road – right turn onto Ranzau West Road – left turn onto Bartlett Road</td> <td>Route colour: Red Description: Bartlett Road – left turn onto SH 60</td> </tr> <tr> <td>Northern</td> <td>Route colour: Yellow Description: Pugh Road – right turn onto Ranzau West Road – left turn onto Bartlett Road</td> <td>Route colour: Green Description: Bartlett Road – right turn onto Ranzau West Road – Ranzau Road – left turn onto SH6</td> </tr> <tr> <td>Southern</td> <td>Route colour: White Description: left turn from SH 6 – Ranzau Road – Ranzau West Road – left turn onto Bartlett Road</td> <td>Route colour: Blue Description: Bartlett Road – right turn onto Ranzau West Road – Ranzau Road – right turn onto SH 6</td> </tr> </tbody> </table> <p>a) Exceptions: i. Trucks will not use the Ranzau Road route to or from the Application Site between 8.15am-9.15am and 2.45pm-</p>	Destination	In-bound Movement	Out-bound Movement	Western	Route colour: Orange Description: Pugh Road – right turn onto Ranzau West Road – left turn onto Bartlett Road	Route colour: Red Description: Bartlett Road – left turn onto SH 60	Northern	Route colour: Yellow Description: Pugh Road – right turn onto Ranzau West Road – left turn onto Bartlett Road	Route colour: Green Description: Bartlett Road – right turn onto Ranzau West Road – Ranzau Road – left turn onto SH6	Southern	Route colour: White Description: left turn from SH 6 – Ranzau Road – Ranzau West Road – left turn onto Bartlett Road	Route colour: Blue Description: Bartlett Road – right turn onto Ranzau West Road – Ranzau Road – right turn onto SH 6	<p>Replace Condition</p> <p><u>All truck movements to and from the Asphalt Plant are to be via River Road and Blackbyre Road or Bartlett Road.</u></p>				Do not accept Dr Teece's changes. These routes have not been approved by NZTA
Destination	In-bound Movement	Out-bound Movement																
Western	Route colour: Orange Description: Pugh Road – right turn onto Ranzau West Road – left turn onto Bartlett Road	Route colour: Red Description: Bartlett Road – left turn onto SH 60																
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Southern	Route colour: White Description: left turn from SH 6 – Ranzau Road – Ranzau West Road – left turn onto Bartlett Road	Route colour: Blue Description: Bartlett Road – right turn onto Ranzau West Road – Ranzau Road – right turn onto SH 6																

	<p>3.25pm. During those times, trucks that would otherwise use Ranzau Road will use the yellow route, unless ii. below also applies.</p> <p><i>Advice Note:</i> These times are 10 minutes before and after the reduced 40 km/hr speed limit past Ranzau School as defined in the Tasman District Council Speed Bylaws 2020.</p> <p>ii. Where there is a road closure blocking use of one of the routes in Table 1 and Plan X referred to in Condition 1. In that instance, trucks that would use that route may use an alternative route as necessary to reach their destination.</p>						
26	<p>Within the Lease Area and within the Bartlett Road entrance to the Waimea River Park internal truck movements shall be in accordance with Plan [site plan] in Condition 1 and shall observe a speed limit of 10km/hr.</p>						
27	<p>Prior the commissioning of the Asphalt Plant, the Consent Holder shall prepare a Traffic Management Plan to operate under, including inducting of all staff and supply contractors to ensure they are familiar with the requirements. The Traffic Management Plan shall:</p> <ul style="list-style-type: none"> a) Cover and apply to all trucks moving to and from the Application Site, including trucks collecting asphalt and delivery of aggregate, diesel and bitumen. b) Identify for each transport route, including the Bartlett Road entrance to the Waimea River Park, where any potential constraints or conflicts with any other road users may be, and the appropriate safety responses; c) Require that all trucks shall be regularly maintained and serviced, with training of staff to ensure truck parts do not create additional instantaneous noise levels from loose parts or chains when driving on rural roads. 						

	d) Be reviewed and provided to Council for certification and provided to Waka Kotahi NZ Transport Agency for information.						
27A			New condition <u>The Consent Holder shall at all times comply with the Noise Management Plan and the Traffic Management Plan referred to at clause XXX and clause XXX respectively.</u>				Accept Dr Teece's request <u>The Consent Holder shall at all times comply with the Noise Management Plan and the Traffic Management Plan referred to at Condition 23 and Condition 27 respectively.</u>
28	The consent holder shall maintain a record of truck movements to and from the Application Site and submit annually (no later than 30 June each year) to Council and Waka Kotahi NZ Transport Agency. The record shall include details of the volume and location of the jobs, by which the trucking numbers and routes are able to assessed.						
29	The activity shall not exceed 80 truck movements to or from the Application Site per day on the legal road network. <i>Advice note:</i> One movement is a trip into the Application Site or a trip out of the Application Site, and includes all delivery trucks as well as asphalt trucks.						Amend for clarity The activity shall not exceed a combined maximum of 80 truck movements to or from the Application Site per day on the legal road network.
30	The activity shall not exceed 8 truck movements to or from the Application Site per hour on the legal road network.						Amend for clarity The activity shall not exceed a combined maximum of 8 truck movements to or from the Application Site per hour on the legal road network.
	Hazardous substances [These conditions have been volunteered by the Consent Holder]						
31	No more than 5,000 litres of diesel shall be stored in a self-bunded tank that is fit for purpose, with bollards shall be positioned around the perimeter of the tank.						
32	No more than 50,000 litres of Bitumen shall be stored in self-bunded transportation trailers.						
33	Prior to the diesel tank being filled, the Consent Holder shall prepare an Emergency and Spill						

	<p>Contingency Plan for the Plant Area. The Plan shall include the following as a minimum:</p> <ul style="list-style-type: none"> a) the name, job title and 24-hour telephone number for the person(s) responsible for activating the Plan; b) a description of the facility including the location, size and storage capacity. The description should include a map and/or diagrams; c) a site map of the location. This map is intended to illustrate the facility's relationship to other areas that may be affected by a spill. The map should be to scale and be large enough to include the location of your facility, nearby buildings or facilities, roads, culverts, catch basins, drainage patterns and any nearby bodies of water which could be impacted by a spill or topographic features which would affect access and response; d) the steps to be taken to report, contain, clean up and dispose of contaminants in the case of a spill; e) the means by which the Plan is activated; f) a description of the training provided to employees to respond to a spill; g) an inventory of and the location of response and clean up equipment available to implement the Plan; h) the date the Plan was prepared; i) a listing of local contractors or clean-up specialists; j) a listing of emergency numbers such as fire, ambulance and police; and k) Material Safety Data Sheets (MSDS) for the product. 						
34	<p>A spill kit shall be provided on-site in areas where hazardous substances are stored. These kits shall be visible, appropriately labelled and readily accessible by all staff. These kits shall contain absorbent materials, clean-up materials and personal protective equipment.</p>						

35	<p>If a surface spillage occurs in the Plant Area, the following steps shall be undertaken without delay:</p> <ul style="list-style-type: none"> a) stop the release at source; b) contain the release where possible; c) respond to any emergencies; d) report the release to the appropriate authorities and to the owner; e) assess the degree of contamination; and f) develop a corrective action plan in conjunction with the appropriate authority and clean up the released product. <p><i>Advice Note:</i> Some of these management responses can be taken concurrently. Any accidental spill of bitumen or asphalt is to be scraped up and discharged to an appropriate facility or re-used within the Asphalt process.</p>						
36	The tanks and all associated equipment on-site shall be regularly checked to ensure their integrity.						
37	The Consent Holder shall keep an accurate written record of all accidents or incidents involving the spillage of hazardous substances and shall supply these to the Council's Team Leader Monitoring & Enforcement on request. Any spillage of hazardous substances where the substance is not collected and removed from site shall be reported immediately (within 24 hours) to the Council's Team Leader Monitoring & Enforcement.						
	Flood Hazard						
38	The Consent Holder shall not block the stopbank, and shall ensure that it is available to Council's Rivers Engineers at all time for flood monitoring.						
39	Should a flood event sufficient to overtop the stopbank be predicted by Council's flood warning network, the Consent Holder shall remove the bitumen and diesel tanks from the site.						
	Complaints register						

40	The Consent Holder shall maintain a Complaints Register for operation of the Asphalt Plant and truck movements to and from the Application site. The register shall be made available to Council upon request.						
	Restoration Works						
41	The Consent Holder shall restore the site in accordance with the provided Restoration Plan attached at Plan XXXX dated XX, and as outlined in Earthworks/NES-CS Consent RM201018.						
	Consent Duration						
42	The term of the consent is: a) 20 years or for the period that extraction and crushing operating on the Council approved lease areas within the Waimea River Park Reserve occurs, whichever is the lesser; and b) Once all extraction and crushing operations cease within the Waimea River Park Reserve, the Consent Holder shall vacate and remediate the Application Site within 6 months.						
43	The consent shall lapse 5 years from the date of commencement.						
	Administration						
44	Pursuant to section 128 of the Resource Management Act the Council may, during the month of June each year, review any or all of the conditions of the consents for all or any of the following purposes: a) dealing with any adverse effect on the environment which may arise from the exercise of the consents that was not foreseen at the time of granting of the consent, and which is therefore more appropriate to deal with at a later stage; or b) to deal with any unforeseen adverse noise issue that might arise as a result of the implementation of these consents; or c) to deal with any unforeseen adverse traffic issue that might arise as a result of the	August allows time for the annual record of truck movements to be received by 30 June each year and considered for any potential review Pursuant to section 128 of the Resource Management Act the Council may, during the month of June August each year, review any or all of the conditions of the consents for all or any of the following purposes				Add new Clause e) Any adverse effects arise from the activity on boysenberry or field crops within 500m of the plant.	Accept TDC Comment about Review Date Decline Eden Fruit and Ors. additional review matter as this is addressed in (a).

	implementation of these consents; or d) requiring the consent holder to adopt the best practicable option to remove or reduce any adverse effect on the environment resulting from the land disturbance.						
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EARTHWORKS / NES-CS CONDITIONS FOR RM201018

	Applicant's Conditions Submitted to Hearing Committee 25/02/22	Council Response 3/3/22	Dr Teece 18/3/22	Barth	Cartwright	Edens Road Fruit and ors	Applicants Right of Reply
	General						
1	The Consent Holder shall ensure that all works are carried out in general accordance with the information submitted in support of the applications RM201000 and RM201018, by Staig & Smith dated XXXX, further information received XXXX and attached Plans A, B, and C dated XXX. In the event that there is any conflict between these documents and any condition of these consents, the conditions prevail.						
2	In this resource consent the terms set out in this condition have the meanings specified in this condition: Lease Area means the wider Downer Group NZ Lease Area. Application Site means the sub-lease area for the Consent Holder, including the access ways within the Lease Area. Plant Area means the area within the Application Site that outside of the stopbank.						
3	Any levelling and compacting of the Plant Area shall not impact the functionality of the stopbank.						
4	The levelling of the Plant Area will include directing stormwater away from areas of potential discharge (tanks storage, conveyor belt and silo) and avoiding runoff across the Lease Area boundary.						
5	The Consent Holder shall realign and regrade the stopbank level with the high point of the road and the connecting stopbank, ensuring a 4m wide top to the stopbank.						
6	Earthworks are to be undertaken during a forecasted dry period.						
7	Earthworks are to be undertaken as quickly as possible to avoid a breach in the stopbank.						
	Before work						
8	Before undertaking any works authorised by this resource consent, the Consent Holder shall appoint a representative who shall be the Council's principal contact person in regard						

	to matters relating to these resource consents.						
9	The Consent Holder shall inform the Council's Team Leader – Monitoring and Enforcement, in writing, of the name and contact details of the following persons: a) The Consent Holder's representative required under Condition 8 , and b) The principal contractor (if not the consent holder representative).						
10	Should the person appointed under Condition 8 change during the term of this resource consent, the Consent Holder shall provide the new name and contact details, in writing to the Council's Team Leader – Monitoring and Enforcement within one working day.						
11	At least 10 working days prior to the commencement of works, the Consent Holder shall notify the Council's Team Leader – Monitoring and Enforcement in writing, of the date that the works are intended to commence. The Consent Holder shall arrange for a site meeting between the Consent Holder's principal contractor and the Council's assigned monitoring officer, which shall be held non site prior to any works commencing. No works shall commence until the Council's assigned monitoring officer has completed the site meeting.						
12	The Consent Holder shall submit to the Council's River Engineer a report prepared by an appropriately qualified professional engineer designing the realignment of the stopbank for certification and other earthworks within the Plant Area for the acoustic barrier and the MARINI Latin America Carbon T-Box 130. The realignment of the stopbank shall anchor in with the height of the existing stopbank under the end of Bartlett Road to the south and the height of the stopbank where it re-joins. No works shall be undertaken until the plan has been certified by Council's River Engineer. The						

	<p>certification shall be given if the proposed works do not put the existing stopbank at risk and the result of the works will at least maintain the design capacity of the stopbank.</p> <p><i>Advice Note:</i> Once approved by Council, a copy is to be sent to Te Ātiawa Manawhenua Kt Te Tau Ihu Trust, Te Runanga o Ngāti Rārua, Ngāti Koata, Ngāti Kuia and Ngāti Apa ki te Rā Tō for information.</p>						
13	<p>At least 10 working days prior to the commencement of works, the Consent Holder shall prepare and submit an Erosion and Sediment Control Plan (ESCP) to the Council's Team Leader – Monitoring and Enforcement for certification. No works shall be undertaken until the ESCP has been certified by Council's Team Leader – Monitoring and Enforcement.</p> <p><i>Advice note:</i> Certification of the ESCP is in the nature of certifying that adoption of the ESCP will result in compliance with the conditions of this consent.</p> <p>Once approved by Council, a copy is to be sent to Te Atiawa Manawhenua Kt Te Tau Ihu Trust and Ngāti Kuia and Ngāti Apa ki te Rā Tō for information.</p>						
14	<p>The following shall apply in respect of Condition 13:</p> <p>a) The Consent Holder may commence the activities in accordance with the submitted ESCP 15 working days after their submission, unless the Council advises the Consent Holder in writing that it refuses to certify them on the grounds that it fails to meet the requirements of the condition and gives reasons for its decision, and</p> <p>b) Should the Council refuse to certify the ESCP, the Consent Holder shall submit a revised plan to the Council for certification and (a) shall apply for any resubmitted plan.</p>						
15	<p>The ESCP required by Condition 13 shall set out the practices and</p>						

	<p>procedures to be adopted in order that compliance with the conditions of this consent is achieved. The ESCP shall include as a minimum:</p> <ul style="list-style-type: none"> a) An aerial image of the site detailing, as a minimum, the location of: <ul style="list-style-type: none"> i. Property boundaries, ii. Surface waterbodies, iii. Roads, iv. All erosion, sediment and dust control measures, and v. Stormwater management measures and the direction of stormwater flows b) Detailed drawings and specifications of all designated erosion and sediment control structures, c) Construction timetable for the erosion and sediment control works, bulk earthworks, re-stabilisation of exposed ground and any planting, d) Maintenance, monitoring and reporting procedures, e) Rainfall response and contingency measures including procedures to minimise adverse effects in the event of extreme rainfall events and/or the failure of any key erosion and sediment control structures, and f) Hydrocarbon spill response and contingency measures. <p>Any changes to the ESCP shall be confirmed in writing by the Consent Holder and authorised by Council's Team Leader – Monitoring and Enforcement and shall not be implemented until notified of the authorisation.</p>						
16	<p>Prior to undertaking earthworks authorised by this consent, the Consent Holder shall ensure that all personnel working on the site are made aware of, and have access to the following:</p> <ul style="list-style-type: none"> a) The conditions of this resource consent, and b) The certified ESCP as required by Condition 13. 						
	Cultural						
17	<p>The Consent Holder shall undertake all works under an Archaeological Accidental Discovery Protocol. In the event, a Māori Archaeological site is</p>						

	<p>found all works shall cease and the Consent Holder shall advise Te Ātiawa Manawhenua Kt Te Tau Ihu Trust, Te Runanga o Ngāti Rārua, Ngāti Koata, and Ngāti Kua and Ngāti Apa ki te Rā Tō immediately of the discovery.</p> <p><i>Advice Note:</i> For any archaeological discovery, the Consent Holder shall consult with the Central Regional Office of Heritage New Zealand Pouhere Taonga and shall not recommence works in the area of the discovery until the relevant Heritage New Zealand approvals to damage, destroy or modify such sites have been obtained.</p>						
18	<p>At least 5 days before earthworks begin, the Consent Holder shall invite Te Ātiawa Manawhenua Kt Te Tau Ihu Trust, Te Runanga o Ngāti Rārua, Ngāti Koata, and Ngāti Kua and Ngāti Apa ki te Rā Tō to nominate an iwi monitor to be present when earthworks are occurring to realign the stopbank and re-level the Plant Area.</p> <p><i>Advice note:</i> An iwi monitor is not required at the end of the project when the application site is being re-earthworked to remove the access ramps over the stopbank and relevel the Asphalt Plant site, as the works will be occurring on a previously monitored modified site</p>						
	During Earthworks						
19	<p>Work authorised by this consent shall only occur between the following hours:</p> <p>a) 0700 – 1800 Monday to Saturday, and b) No work shall occur on Sundays or public holidays.</p>						
20	<p>All activities shall be carried out so as to comply with NZS6803:1999 Acoustics – Construction Noise standards. To determine compliance, noise shall be measured and assessed in accordance with the provisions of NZS6801:2008 Acoustics – Measurement of Environmental Sound and NZS6802:2008 Acoustics Environmental Noise.</p>						
21	<p>All erosion, sediment and dust control measures shall be</p>						

	installed prior to the commencement of any disturbance or discharge to land, and shall be maintained until all disturbed areas are stabilised and / or revegetated						
22	<p>The consent holder shall adopt the best practical measures to prevent the movement of disturbed soil or vegetation into surface water or flood waters impacting on the site. These measures may include, but are not restricted to:</p> <ul style="list-style-type: none"> a) working during periods of fine weather when the likelihood of erosion and sedimentation will be less and risk of flooding is low; b) stormwater run-off controls around the area of disturbance, such as filter fences, cut-offs, culverts, and water tables to prevent scour, gulying or other erosion; c) providing undisturbed buffers between the land disturbance and any water body along with filter fences or other means of intercepting stormwater run-off; d) sediment traps adequate to contain and treat sediment-laden run-off water; and e) any other measures appropriate to the nature and scale of the land disturbance. 						
23	<p>If during the works fill or excavated soil needs to be temporarily stockpiled on-site, then the consent holder shall ensure stockpiles are:</p> <ul style="list-style-type: none"> a) kept tidy and with a stable slope; and b) stored in a manner that minimises any potential discharge of material into the surrounding environment. 						
24	<p>The Consent Holder's operations shall not give rise to any discharge of contaminants (eg. Dust), at or beyond the site boundary, which is noxious, dangerous, offensive or objectionable. Dust control measures shall be available and used on site, in accordance with the certified ESCP, to ensure compliance with this condition.</p>						

25	The Consent Holder shall, subject to any unforeseen weather or site remediation, complete the earthworks to relocate the Stopbank and level the Plant Area within six months of commencing earthworks.						
	Administration						
26	<p>Pursuant to section 128 of the Resource Management Act the Council may, during the month of June each year, review any or all of the conditions of the consents for all or any of the following purposes:</p> <p>a) dealing with any adverse effect on the environment which may arise from the exercise of the consents that was not foreseen at the time of granting of the consent, and which is therefore more appropriate to deal with at a later stage; or</p> <p>b) to deal with any unforeseen adverse noise issue that might arise as a result of the implementation of these consents; or</p> <p>c) requiring the consent holder to adopt the best practicable option to remove or reduce any adverse effect on the environment resulting from the land disturbance; or</p> <p>d) to comply with any national environmental standards made under the Resource Management Act 1991.</p>	<p>August allows time for the annual record of truck movements to be received by 30 June each year and considered for any potential review</p> <p>Pursuant to section 128 of the Resource Management Act the Council may, during the month of June–August each year, review any or all of the conditions of the consents for all or any of the following purposes</p>					Accept TDC Comment about Review Date
	Duration						
27	<p>The term of the consent is:</p> <p>a) 20 years or for the period that extraction and crushing operating on the Council approved lease areas within the Waimea River Park Reserve occurs, whichever is the lesser; and</p> <p>b) Once all extraction and crushing operations cease within the Waimea River Park Reserve, the Consent Holder shall vacate and remediate the Application Site within 6 months.</p>						
28	These consents shall lapse 5 years from the date of commencement.						
	NES-CS						

29	All works undertaken in association with the Application Site, including removal of the gravel crusher, realigning the stop bank and levelling the Plant Area, as well as restoration earthworks at the end of the consent shall be undertaken accordance with an Accidental Discovery Plan (ADP) for the Application Site.						
30	<p>After removing the gravel crusher and associated infrastructure, the Consent Holder will undertake Benchmark analytical testing of the Application Site prior to installing the Asphalt Plant, which shall involve sampling in a grid pattern across the Application Site, and analysis of each sample for:</p> <p>a) Standard Heavy Metals:</p> <ul style="list-style-type: none"> • Arsenic • Cadmium • Chromium • Copper • Lead • Nickel • Zinc <p>b) Polycyclic aromatic hydrocarbons</p> <p>c) Target Total Petroleum Hydrocarbons and BTEX compounds where visual inspection indicates a previous fuel spill.</p> <p><i>Advice Note:</i> If benchmark testing indicates remedial works are required, the Lease Holder Downer Group NZ Ltd shall be responsible.</p>					<p>Replace Advice note:</p> <p><i>Advice Note:</i> If benchmark testing indicates remedial works are required, the Lease Holder Downer Group NZ Ltd shall be responsible. <u>These obligations are in addition to any obligations contained within the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soils to Protect Human Health) Regulations 2011</u></p>	Accept replacement Advice Note from Eden Fruit and Ors
31	At the end of the consent, upon removal of the Asphalt Plant and associated infrastructure, the Consent Holder will undertake analytical testing of the Application Site in accordance with condition 30 . If testing shows changes to background testing, the Applicant shall remediate the Application Site to Benchmark levels.						
32	The Consent Holder shall remove the access ramps over the stopbank, and place this material within the Lease Area and shall topsoil and plant with appropriate vegetation in accordance with the provided Restoration Plan attached at Plan XX dated XX.						

AIR DISCHARGE CONDITIONS FOR RM201002

	Applicant's Conditions Submitted to Hearing Committee 25/02/22	Council Response 3/3/22	Dr Teece 18/3/22	Barth	Cartwright	Edens Road Fruit and ors	Applicants Right of Reply
	General						
1	The discharge shall only be contaminants to air from the manufacture of asphaltic concrete from the MARINI Latin America Carbon T-Box 130 plant and ancillary activities at Downer Group NZ Ltd's old crushing plant at 272 Bartlett Road, Appleby. The application site located within Lot 1 DP 368439, attached Plan A RM201002, dated XXXX, which forms part of this consent.						
2	In this resource consent the terms set out in this condition have the meanings specified in this condition: Lease Area means the wider Downer Lease Area. Application Site means the sub-lease area for the Consent Holder, including the access ways within the Lease Area. Plant Area means the area outside of the stopbank.						
3	The discharge shall only be the following: a) Combustion by-products from the external combustion of diesel with a total net heat output of 13 megawatts; b) Organic contaminants (including odorous contaminants) from the operation of an asphalt plant capable of producing up to 130 tonnes per hour of asphalt and associated heated storage and handling of bitumen and asphalt; c) Dust from the handling and storage of aggregate and bulk solid materials associated with asphalt manufacture. d) Occur a maximum of 10 hours on any day.						
	Limits						
4	The discharge shall not cause odour or particulate matter that is offensive or objectionable beyond the boundary of the Application site. <i>Advice Note</i> Boundary of the site is defined as outside of the Application Site and acoustic fence. It is not the						

	parcel boundary for the River Park.						
5	The concentration of filterable and condensable PM ₁₀ particulate matter collectively in the baghouse stack discharge shall not exceed 30 milligrams of PM ₁₀ particulate per cubic metre of air when adjusted to 0 degrees Celsius, 101.3 kilopascals on a dry gas basis.						
6	The minimum baghouse stack exit velocity shall be 10 metres per second.						
7	The emission rate of PM ₁₀ , consisting of both filterable and condensable particulate matter collectively, from the baghouse stack shall not exceed 0.93 kilograms of PM ₁₀ particulate per hour (0.26g/s).						
8	The temperature of asphalt product exiting the asphalt mixing mill or drum shall not exceed 175 degrees Celsius at any time.						
9	The burner shall be maintained and correctly adjusted to avoid any visible smoke emissions from the baghouse stack. <i>Advice note:</i> This condition excludes emissions of steam/water vapour from the stack.						
	Emissions control and pollution abatement measures						
10	No part of the process associated with a discharge to air, as described in the application, shall be operated without the associated emissions control equipment being fully operational and functioning correctly.						
11	The asphalt plant shall be a MARINI Latin America Carbon T-Box 130.						
12	While in operation, drying and combustion gases from the mixing drum shall be extracted and directed to a baghouse fabric filtration system. Exhaust from the bag filter shall be discharged via a stack that is not less than 12.5m above the surrounding ground level and 13m above finished ground level immediately under the bag house.						
13	The asphalt loadout area shall be fully enclosed and all emissions during loadout shall be directed to a stack at a height of not less than	The asphalt loadout area shall be fully enclosed and all emissions during loadout shall be directed to a stack at				The asphalt loadout area shall be fully enclosed and all emissions during loadout shall be directed to a stack	Accept TDC Comment about Staff Nomenclature

	<p>12.5 metres above the surrounding ground level. The extraction system shall be designed to maintain negative pressure at all times within the enclosure, achieving an efflux velocity of at least 10m/s from the emission stack. The enclosure shall be fitted with rapid opening doors that are opened only for the purpose of truck entry and exit. The consent holder shall submit the plan of the load out enclosure area design, which must be peer reviewed by a suitably qualified Engineer, for approval by Council (Manager Resource Use at least 10 days prior to construction commencing.</p>	<p>a height of not less than 12.5 metres above the surrounding ground level. The extraction system shall be designed to maintain negative pressure at all times within the enclosure, achieving an efflux velocity of at least 10m/s from the emission stack. The enclosure shall be fitted with rapid opening doors that are opened only for the purpose of truck entry and exit. The consent holder shall submit the plan of the load out enclosure area design, which must be peer reviewed by a suitably qualified Engineer, for approval by Council (Manager Resource Use <u>Team Leader Monitoring and Enforcement</u>) at least 10 days prior to construction commencing.</p>				<p>the mixing drum for incineration prior to discharge from the asphalt plant stack via the bag filter at a height of not less than 12.5 metres above the surrounding ground level. Loadout and storage of asphalt in the loadout area shall only occur when the asphalt plant drum burner is operating. The extraction system shall be designed to maintain negative pressure at all times within the enclosure, achieving an efflux velocity of at least 10m/s from the emission stack. The enclosure shall be fitted with rapid opening doors that are opened only for the purpose of truck entry and exit. The consent holder shall submit the plan of the load out enclosure area design, which must be peer reviewed by a suitably qualified Engineer, for approval by Council (Manager Resource Use <u>Team Leader Monitoring and Enforcement</u>) at least 10 days prior to construction commencing.</p>	<p>Loadouts will occur during periods when the MARINI Latin America Carbon T-Box 130 is not in operation, and so having a separate extraction system that is independent of the asphalt manufacturing process will provide better control of the discharges. The amount of excess air required to be extracted from the loadout area will exceed the design rate of air flow through the mixing drum, which may have unintended consequences that affect the Plant's operation, including product quality and potentially increased emissions to air.</p> <p>Mr Bender does not support sending loadout air to mixing drum. Decline Eden Fruit and Ors request.</p>
14	<p>Loadouts from the hot mix storage (silo) to trucks must occur with the roller doors closed and the extraction system fully operational. The cover may be secured either inside or outside the loadout area but must be secured before the truck exits the Application Site.</p>						
15	<p>Discharges from both stacks shall be directed vertically into the air and shall not be impeded by any obstruction above the stacks that decreases the vertical velocities below that which would occur in the absence of such obstructions.</p>					<p>Discharges from both stacks shall be directed vertically into the air and shall not be impeded by any obstruction above the stacks that decreases the vertical velocities below that which would occur in the absence of such obstructions</p>	<p>As per comment on 13 above.</p> <p>Mr Bender does not support sending loadout air to mixing drum. Decline Eden Fruit and Ors request.</p>
16	<p>All measures shall be taken to ensure that fugitive emissions from the extracted enclosures and equipment, ducting and emissions control equipment are kept to a practicable minimum and all measures shall be taken</p>						

	to ensure the MARINI Latin America Carbon T-Box 130 operates as designed.						
17	Activated Carbon Filters shall be fitted on the bitumen tank vents to prevent fugitive odour discharges.						
18	The Filler bins shall be fitted with lids.						
19	The conveyor(s) or method of conveyance of asphalt product from the asphalt mixing mill or drum to product silos shall be enclosed. While in operation, ventilation air from the enclosed conveyor(s) or method of conveyance shall be extracted and directed to the aggregate drying drum and incinerated as part of burner combustion air.						
20	<p>The discharge shall occur in accordance with an Air Quality Management Plan (AQMP). The AQMP shall be submitted to the Council's Team Leader Monitoring & Enforcement for certification that it meets the requirements of these conditions, prior to the exercise of this consent. The discharge shall not commence until written notice of certification of the AQMP by the Council is received. The AQMP may incorporate a series of monitoring, management and operational procedures, methodologies and contingency plans, and together shall accurately record all data required to comply with the conditions of this consent. The AQMP shall include all measures necessary to achieve compliance with the conditions of consent, including but not limited to, the following:</p> <p>a) Identification of all fugitive and point sources of discharges of contaminants into air, including a map showing the location of each source;</p> <p>b) Procedures to minimise discharges of contaminants into air, including details of the inspection, maintenance, monitoring and contingency procedures in place for all emissions control equipment at the Application Site;</p>						

	<p>c) Details of management and monitoring practices in place to minimise discharges of contaminants into air, including dust and odour. These measures shall include</p> <ul style="list-style-type: none"> i. Minimising the heights of exposed stockpiles and drop heights; ii. Daily visual monitoring of potential fugitive dust emissions. iii. Sweeping, suction cleaning or use of other housekeeping measures to regularly remove accumulated bulk solid materials on yard or hardstand areas; iv. Using water and/or dust suppressants on disturbed surfaces, internal trafficable routes and stockpiles when required; v. Limiting vehicle speeds within the Lease Area and within the Bartlett Road entrance to the Waimea River Park to 10km/hr. <p>d) Details of methods and procedures for measuring operating parameters relating to discharges to air, including the monitoring required by Conditions 23 to 26;</p> <p>e) Where appropriate, the operating parameters and manufacturer's instructions for all emissions control equipment.</p> <p>f) Procedures for the monitoring of dust and odour, including details of inspection procedures, recording requirements and contingency measures;</p> <p>g) The identification of staff responsibilities;</p> <p>h) The procedures for the receipt, recording and handling of air quality complaints received; and</p> <p>i) Details of the frequency and scope of the regular checks to be performance on emissions control equipment.</p>						
	Maintenance and Servicing						
21	The Asphalt Plant and bitumen heater burners shall be serviced at least once every year by a person competent in the servicing						

	of such devices. This servicing shall include ash and carbon deposit removal, and adjustment if necessary of the fuel to air ratio to prevent visible smoke and particulate matter emissions. Service reports shall be prepared and retained and copies shall be provided to the Council's Team Leader Monitoring & Enforcement during the month of June each year or on request.						
22	The bag filter shall be pro-actively managed and maintained in accordance with the manufacturer's recommendations in order to minimise the discharge of particulate matter. This includes, but is not limited to, maintaining sufficient inventory to ensure bags are changed out before, or immediately after, any tears or holes develop. Records of the date and type of maintenance and inspections carried shall be kept and made available to the Council on request.						
	Monitoring						
23	<p>The discharge of both filterable and condensable particulate matter discharged from the asphalt plant stack shall be measured within three months of the date of exercise of this consent and thereafter at least once every 12 months.</p> <p>a) Measurements shall occur when the asphalt plant is operating at greater than 50% of maximum production capacity.</p> <p>b) The method of sampling and analysis of filterable particulate matter shall be ISO 9096:2003, ASTM D3685-98, USEPA Methods 5 or 17, or equivalent methods.</p> <p>c) The method of sampling and analysis of condensable particulate matter shall be USEPA Method 202 or an equivalent method.</p> <p>d) The laboratory performing the testing and analysis shall be accredited under NZ/ISO/IEC 17025 to undertake the method used at the time of the test.</p>						

	<p>e) Total particulate sampling results (the sum of filterable and condensable particulate measured) shall be reported as a concentration expressed as milligrams per cubic metre adjusted to 0 degrees Celsius 101.3 kilopascals, and on a dry gas basis, and as a mass emission rate expressed as kilograms per hour. The results shall include a description of the method used, the approximate rate of asphalt production during testing and any assumptions made.</p> <p>f) The consent holder shall provide test results to the Council's Team Leader Monitoring and Enforcement, within 30 working days of sampling.</p>						
24	<p>Continuous monitoring of differential pressure or an alternative method with the prior written approval of the Council's Team Leader Monitoring and Enforcement shall be employed to identify failure of filter element(s) within the baghouse. The monitoring system shall be fitted with an alarm in the case of element failure.</p>						
25	<p>The temperature of asphalt product exiting the asphalt mixing mill or drum shall be continuously monitored and the monitoring system shall be fitted with an alarm in the case of exceedance of the temperature specified in condition 8.</p>						
26	<p>The consent holder shall review and (if necessary) update the AQMP required in Condition 20 at least once every year for the term of this consent, to ensure that any review takes account of the monitoring for the previous year, and that a review is triggered in the event of any verified breach of condition 4. Any proposed changes to the AQMP shall be submitted to Council's Team Lead Monitoring & Enforcement for certification within one month of the consent holder's review. The AQMP shall be certified if it gives effect to the conditions of</p>						

	consent and aligns with good practice.						
	Records and Reporting						
27	<p>A record of complaints relating to discharges of contaminants to air from the Application site including odour or particulate matter or dust, shall be maintained and shall include:</p> <ul style="list-style-type: none"> a) Location of where the odour or particulate matter or dust was detected by the complainant; b) The date and time when the odour or particulate matter or dust was detected; c) The date and time when the odour or dust complaint was received; d) The name, telephone number and address of the complainant; e) A detailed description of the odour or dust incident taking into account the frequency, intensity, duration, offensiveness and location; f) A description of the wind speed and wind direction when the odour or particulate matter or dust was detected by the complainant; g) Details of key operating parameters at the time of the odour incident; h) The most likely cause of the odour or particulate matter or dust detected; and i) Any corrective action undertaken by the consent holder to avoid, remedy or mitigate the odour or particulate matter or dust detected by the complainant. j) This record shall be provided to the Council on request. 						
	Duration						
28	<p>The term of the consent is:</p> <ul style="list-style-type: none"> a) 20 years or for the period that extraction and crushing operating on the Council approved lease areas within the Waimea River Park Reserve occurs, whichever is the lesser; and b) Once all extraction and crushing operations cease within the Waimea River Park Reserve, the Consent Holder shall vacate and remediate 						

	the Application Site within 6 months.						
29	This consent shall lapse 5 years from the date of commencement.						
	Administration						
30	<p>Pursuant to section 128 of the Resource Management Act the Council may, during the month of June each year, review any or all of the conditions of the consents for all or any of the following purposes:</p> <p>a) dealing with any adverse effect on the environment which may arise from the exercise of the consents that was not foreseen at the time of granting of the consent, and which is therefore more appropriate to deal with at a later stage; or</p> <p>b) requiring the consent holder to adopt the best practicable option to remove or reduce any adverse effect on the environment resulting from the land disturbance, or</p> <p>c) Requiring further mitigation if particulate matter emission test results exceed the emission limit specified by condition 6 or if a breach of Condition 4 occurs at or beyond the property boundary.</p>	<p>August allows time for the annual record of truck movements to be received by 30 June each year and considered for any potential review</p> <p>Pursuant to section 128 of the Resource Management Act the Council may, during the month of June August each year, review any or all of the conditions of the consents for all or any of the following purposes</p>				<p>Add new Clause</p> <p>d) Any adverse effects arise from the activity on boysenberry or field crops within 500m of the plant.</p>	<p>Accept TDC Comment about Review Date</p> <p>Decline Eden Fruit and Ors. additional review matter as this is addressed in (a).</p>

26 July 2019

Downer New Zealand Ltd
C/- Andrew Henderson
Beca Limited
PO Box 13960
Armagh
Christchurch 8141

Dear Downer New Zealand Ltd

Decision on Non-Notified Resource Consent Application Nos: RM170569, RM170570, Downer New Zealand Limited:

- a. Replacement Waimea West Zone Consent to take and use groundwater for gravel washing - Unaffiliated to the Waimea Community Dam; and
- b. Replacement discharge consent to discharge water and associated sediment from a gravel washing operation via infiltration from a settling pond to the Waimea River

Your application for the resource consents referred to above has been granted. A copy of the Council's decision is attached. Please read all of the conditions and advice notes carefully. Some of the conditions from your previous consents have been changed whilst other new conditions have been included in these replacement consents. Please feel free to contact me if you have any questions about your consents or their conditions. My contact details are listed at the top of this letter.

Here are some other matters that I need to highlight for you.

Section 357A of the Resource Management Act 1991 ("the Act") provides you with the right to lodge an objection with the Council against this decision including any of the conditions. Objections must be made in writing setting out the reasons for the objection together with a deposit fee of \$300.00 (GST inclusive), and must be lodged here within 15 working days of receiving this letter.

We acknowledge that some of this take may be non-consumptive (given the discharge consent RM170570). However, you have not sought any recognition of this non-consumptive element and have provided no evidence of what portion of your take is non-consumptive. Furthermore, there is no real time metering of the discharge, there is no modelling and no estimation of evapotranspiration from the settling ponds. If you wish to get acknowledgment for the discharge (and thus non-consumptive portion), then you will need to submit more information with a variation application.

Tasman District Council
Email info@tasman.govt.nz
Website www.tasman.govt.nz
24 hour assistance

Richmond
189 Queen Street
Private Bag 4
Richmond 7050
New Zealand
Phone 03 543 8400
Fax 03 543 9524

Murchison
92 Fairfax Street
Murchison 7007
New Zealand
Phone 03 523 1013
Fax 03 523 1012

Motueka
7 Hickmott Place
PO Box 123
Motueka 7143
New Zealand
Phone 03 528 2022
Fax 03 528 9751

Takaka
78 Commercial Street
PO Box 74
Takaka 7142
New Zealand
Phone 03 525 0020
Fax 03 525 9972

The final cost of processing your applications has not been calculated yet. If the final cost exceeds the deposit already paid, then as we previously advised, you will be invoiced separately for the additional cost. If the final cost is less than the deposit already paid, then you will receive a refund. Where the costs are equal to the deposit already paid, no further action is required. You will receive a letter shortly about the final costs of processing your applications.

Please be aware that these consents will continue to attract a monitoring fee for which you will be invoiced annually. In addition, officers of the Council may also carry out site visits to monitor compliance with resource consent conditions and these may be invoiced separately.

Yours sincerely



Samuel Nevin
Consent Planner



RESOURCE CONSENT DECISION

Resource consent number: RM170569

Pursuant to Section 104B of the Resource Management Act 1991 ("the Act"), the Tasman District Council ("the Council") hereby grants resource consent to:

Downer New Zealand Limited

(hereinafter referred to as "the Consent Holder")

Activity authorised by this consent: To take and use groundwater for gravel washing.

Location details:

Address of property: Appleby Highway, Appleby
Valuation number: 1939018901

Pursuant to Section 108 of the Act, consent is issued subject to the following conditions and an expiry date of **30 November 2039**:

CONDITIONS

Site, Take and Use Details

- | | | |
|---|--|--|
| 1 | Legal Description of land where water is used: | (Part of) Lot 1 DP 368439, as shown in Map A attached to this consent and being TDC Lease #53319L1 |
| | Category of Water Source: | Groundwater |
| | Source: | Appleby Gravel Unconfined Aquifer |
| | Water Zone: | Waimea West |
| | Catchment: | Waimea |
| | Water Use: | Gravel washing |
| | Maximum Take Rates Authorised: | 11.7 litres per second
1200 cubic metres per week |
| | Bore Number: | WWD 608 |
| | Location at or about point of take: | Easting: 1610079 & Northing: 5423300 (NZTM) |

Water Metering

- 2 Prior to first exercise of this consent, the Consent Holder or their agent shall, at their own expense, install and thereafter operate and maintain a water meter that complies with both the Water Meter definition as stated in Chapter 2 of the Tasman Resource Management Plan and the Resource Management (Measurement & Reporting of Water Takes) Regulations 2010, including that any new water meter shall have a pulse output facility capable of providing data in a form suitable for electronic storage.

Advice Note 1:

The Resource Management (Measurement & Reporting of Water Takes) Regulations 2010 apply to this consent and the Consent Holder is therefore referred to the Ministry for the Environment website for all requirements under these Regulations. The website address is: <http://www.mfe.govt.nz/rma/central/measuring-reporting-water-takes.html>.

Advice Note 2:

Council understands that a meter as required under Condition 2 is installed.

- 3 The water meter required under Condition 2 shall be installed in accordance with the water meter manufacturer's specifications such that it provides a continuous measurement of all water taken under this consent. Prior to first exercise of this consent, the water meter shall be verified as measuring the volume of water taken to within +/-5% of the actual water taken and written confirmation of water meter accuracy shall be provided by the verifier to the Council's Team Leader Monitoring & Enforcement. Further verification in accordance with this condition shall occur at least once every 5 year period thereafter.

Advice Note:

Council has no record that this water meter has been verified yet. Verification in accordance with consent conditions is required prior to first exercise of this consent.

- 4 Water meter verification shall be performed by a person who is appropriately accredited and suitably qualified and experienced and the verification methodology shall be in general accordance with best practice.

'Appropriately accredited and suitably qualified and experienced' in relation to installation and verification of water meters is accreditation under the Water Measurement & Reporting Industry Accreditation Programme (Irrigation NZ; February 2011) or a similar programme that provides both training and auditing.

- 5 The Consent Holder shall record their water meter reading every week of every year and shall return their meter readings to the Council's Team Leader Monitoring & Enforcement by the date(s) specified each year by the Council.

Advice Note:

The Consent Holder is required to supply to Council a complete record of their weekly water meter readings for each water year, including recording nil usage. Regular (preferably Monday) meter readings are required to ensure consistent data and because Council currently monitors weekly use.

Advice is available about options (including telemetry) to supply the water meter readings to Council. Please contact Council's Compliance & Investigations Officer (Water Metering) to discuss these options.

Rationing Implementation - Until the Waimea Community Dam is Fully Operational

- 6 Until such time as the Waimea Community Dam is fully operational, a stepped reduction of water use shall occur as shown in Table 1 below. Progression to the various rationing steps shall occur as per the triggers shown. Where triggers are not specified in Table 1, progression to the subject steps (including beyond Step 4) shall be implemented upon notification by Council to the Consent Holder, pursuant to Section 329 of the Resource Management Act.

Table 1:

Zone	Trigger Flow (litres per second L/s)		
	Step 1 Rationing Trigger	Step 3 Rationing Trigger	Step 4 Rationing Trigger
Delta; Reservoir; Upper Catchments; Waimea West; Upper Confined Aquifer; Golden Hills	1.0 millisiemens per centimetre in any used bore; and/or 2750 L/s in Wairoa River at Irvines	2300 L/s in Wairoa River at Irvines	800 L/s in the Waimea River at the Tasman District Council Nursery recorder

The rationing steps shall comprise of a series of cuts of authorised usage from the maximum weekly quantity of 1200 cubic metres authorised under Condition 1, which for the Consent Holder are:

- Step 1: Allocation less 20% = 960 cubic metres per week
- Step 2: Allocation less 35% = 780 cubic metres per week
- Step 3: Allocation less 50% = 600 cubic metres per week
- Step 4: Allocation less 70% = 360 cubic metres per week

Advice Note 1:

Consultation with Unaffiliated Waimea Plains Water Users regarding possible water rationing will typically occur when the flow of the Wairoa River at Council’s Irvines recorder site falls to 3000 litres per second.

Advice Note 2:

Advice Note 2 at the end of these conditions provides more detail in regards to when the Waimea Community Dam is considered to be ‘fully operational’.

Advice Note 3:

Advice Note 7 at the end of these conditions provides more detail on the siting and operation of the Irvines and the Tasman District Council Nursery recorder sites.

Advice Note 4:

At the time of writing this decision, the Tasman Resource Management Plan has a stated minimum flow of 800 L/s in the Waimea River at the Tasman District Council Nursery recorder site (during the interim (dam construction) period). Council may require further rationing and/or a cease take to be implemented, pursuant to Section 329 of the Resource Management Act, in order to maintain this minimum flow.

Rationing Implementation – Once the Waimea Community Dam is Fully Operational

- 7 Once the Waimea Community Dam is fully operational, a stepped reduction of water use shall occur as shown in Table 2 below. Once Step 3 (cease take) is triggered, the taking of water under this consent may only recommence in accordance with the provisions of Table 2 below.

Table 2:

Zone	Trigger Flow (litres per second L/s)			
	Step 1 Rationing Trigger	Step 2 Rationing Trigger	Step 3 Rationing Trigger (Cease Take)	Trigger for resuming abstraction after any cease take imposed
Delta; Reservoir; Upper Catchments; Waimea West; Upper Confined Aquifer; Golden Hills	1.0 millisiemens per centimetre in bore WWD50 (E1611825 & N5427949 NZTM); and/or 2750 L/s in Wairoa River at Irvines	2300 L/s in Wairoa River at Irvines	All zones cease take at 2050 L/s flow in Wairoa River at Irvines	Takes in all zones recommence when 7 day moving mean reaches 6000 L/s in Wairoa River at Irvines

The rationing steps shall comprise of a series of cuts of authorised usage from the maximum weekly quantity of 1200 cubic metres authorised under Condition 1, which for the Consent Holder are:

- Step 1: Allocation less 20% = 960 cubic metres per week
- Step 2: Allocation less 50% = 600 cubic metres per week
- Step 3: Cease Take

Advice Note 1:

Consultation with Unaffiliated Waimea Plains Water Users regarding possible water rationing will typically occur when the flow of the Wairoa River at Council's Irvines recorder site falls to 3000 litres per second.

Advice Note 2:

Advice Note 7 at the end of these conditions provides more detail on the siting and operation of the Irvines recorder site. Of particular note is that the triggers detailed in Table 2 above refer to the unmodified flow at Irvines (ie, the flow at this recorder site as if the Waimea Community Dam did not exist).

Advice Note 3:

Advice Note 2 at the end of these conditions provides more detail in regards to when the Waimea Community Dam is considered to be 'fully operational'.

Backflow Prevention

- 8 Prior to any substance, including but not limited to, effluent, fertilizer or other contaminant, being added to the supply system, the Consent Holder shall ensure:
 - (a) they engage a suitably qualified and experienced person to install an industry-recognised, best practice backflow prevention device;
 - (b) the suitably qualified and experienced person referred to in clause (a) tests the device at the time of installation in order to ensure it is functioning effectively (including appropriate siting);

- (c) the backflow device is thereafter operated and maintained such that it prevents the backflow of contaminants into the water source at all times;
- (d) they engage a suitably qualified and experienced person to test the backflow prevention device annually in order to ensure it is functioning effectively. The annual test shall be undertaken during the same month as when the device was first installed; and
- (e) they engage the suitably qualified and experienced person referred to in clauses (a), (b) and (d) to write and submit a report and photographs to Council's Team Leader Monitoring & Enforcement, which details the results of the required installation and testing, including any required and undertaken maintenance as well as confirmation that the backflow prevention device is installed and functioning effectively.

Advice Note 1:

For the purposes of this condition, an 'industry-recognised best practice backflow prevention device' typically refers to either a testable Reduced Pressure Zone (RPZ) device or a testable double-check valve device. An RPZ is the most reliable and effective option. A non-return valve or foot valve is **not** considered to be an 'industry-recognised best practice backflow prevention device'.

Advice Note 2:

For the purposes of this condition, a 'suitably qualified and experienced person' is someone who is an Independently Qualified Person (IQP) in regards to installing, testing and maintaining (irrigation appropriate) backflow prevention devices so they function effectively. At the time of this decision, the Timaru District Council maintains a register of IQPs which can be viewed at this link:
<https://www.timaru.govt.nz/services/building/independent-qualified-persons>.

Water management Scheme Design and Operation Plan

- 9 The Consent Holder shall, if requested by the Council, provide documentation, including a property water management plan, to the Council's Team Leader Monitoring & Enforcement that demonstrates and documents the measures necessary to achieve efficient water use, including metering usage and leak detection programmes, repairs and maintenance.

Water Use

- 10 All water use shall be restricted to the land identified in Condition 1 and as shown in Map A attached to this consent and shall not trespass onto land not owned or under the control of the Consent Holder, including any public road.

Advice Note:

This consent does not authorise the discharge of water or any land use for gravel washing, crushing and/or storing. The discharge of water and associated sediment is authorised under associated consent RM170570.

Amenity Effects

- 11 All practical and reasonable effort shall be made to minimise the noise and visual impact of the scheme infrastructure. Efforts to minimise effects include, but are not limited to: appropriate siting and appearance of all equipment (including any pipes,

pump shed, power poles), planting of native screening vegetation and the adoption of recessive colours.

Advice Note:

The Consent Holder is responsible for ensuring compliance with the relevant Tasman Resource Management Plan permitted activity rule(s) for their subject land use zone. This includes rules relating to noise and water intake structures in the beds of rivers. Should the Consent Holder not be able to meet the permitted activity criteria, then they must apply for consent accordingly.

Monitoring Charges

- 12 The Consent Holder shall pay the reasonable costs associated with the monitoring of this consent, including annual charges and the following:
- (a) Council's actual and reasonable costs to verify water meter accuracy more frequently than once every 5 years where that verification identifies that the meter accuracy is not within the range of +/-5%;
 - (b) Council's costs of maintaining a water meter usage database for this consent; and/or
 - (c) Council's reasonable costs of reviewing the consent conditions including for the reasons detailed in Condition 13.

Review of Conditions

- 13 Council may, for the duration of this consent and within the 3 month period following the anniversary of its granting each year, review the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 for the purposes of:
- (a) dealing with any unexpected adverse effect on the environment which may arise from the exercise of the consent and which is appropriate to deal with at a later stage;
 - (b) requiring the adoption of the best practical option to remove or reduce any adverse effects on the environment;
 - (c) to reduce the quantities and rates of water authorised to be taken if the consent is not fully exercised;
 - (d) when relevant national environmental standards or regulations have been made under Section 43 of the Resource Management Act 1991; and/or
 - (e) to comply with requirements of any relevant water conservation order, national environmental standard, regional or district plan (including following a plan change becoming operative) and/or any other relevant legislation, including matters relating to: allocation limit, minimum flow regime, rate of use limit, rationing or rostering restriction, water metering and telemetry requirements, nutrient management and/or minimum standards relating to water quality.

Other Conditions

- 14 This consent may be cancelled upon not less than 3 months' notice in writing by the Council if it remains unexercised without good reason for any continuous period

exceeding 5 years, but without prejudice to the right of the Consent Holder to apply for a further resource consent in respect of the same matter.

- 15 The Consent Holder shall keep such additional records as may be reasonably required by the Council and shall, if so requested, supply this information to the Council. If it is necessary to install additional measuring devices to enable satisfactory records to be kept, the Consent Holder shall, at their own expense, install, operate and maintain suitable devices.
- 16 For the avoidance of doubt, the granting of this consent cancels and replaces consent NN020104.

ADVICE NOTES

- 1 This resource consent only authorises the activity described. Any matters or activities not referred to in this consent or covered by the conditions must either: 1) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP); 2) be allowed by the Resource Management Act; or 3) be authorised by a separate resource consent. For example, this consent does not authorise any riverbed disturbance or placement of any structure within the bed of a river; nor any land disturbance or earthworks (including disturbance to any stopbank). Furthermore, this consent does not authorise any discharge or land use for gravel washing and crushing.
- 2 For the avoidance of doubt, the point in time in which the Waimea Community Dam (WCD) becomes fully operational is when the dam has filled to its full capacity and spilled water via its spillway for the first time since commissioning of the dam (in accordance with the provisions of the relevant WCD consents). Council will likely inform the Consent Holder when the WCD becomes fully operational (ie, Condition 6 no longer applies and only Condition 7 applies).
- 3 Section 125 of the Resource Management Act 1991 states that a consent shall lapse where it is not given effect to within 5 years of its granting.
- 4 Section 126 of the Resource Management Act 1991 states that the consent may be cancelled upon not less than 3 months' notice in writing if the consent remains unexercised without good reason for any continuous period exceeding 5 years.
- 5 Access by the Council or its officers or agents to the land subject to this resource consent is reserved pursuant to Section 332 of the Resource Management Act.
- 6 This consent is not an authority to gain access to the site of taking or use of water. The site of the taking and use of water appears to be Waimea Riverbed land. Authorisation from the relevant landowners/land administrator must be obtained. This is the applicant's responsibility.
- 7 The site referred to as Irvines is located at approximate map reference E1611011 & N5417356 (NZTM) (ie, a short distance downstream of the confluence of the Lee and Wairoa Rivers). At the time of writing this decision, the Irvines physical recorder has been replaced by individual recorders on the Wairoa, Lee and Roding Rivers. The flow record for the Irvines site is now the sum of these three upstream tributaries and is considered by Council to be a continuation of the original flow site.

Once the WCD is fully operational, for the purpose of this consent the flow record for the Irvines site will be corrected to remove any modification of the flow by the influence of the WCD. Any other new (post-WCD) factors that affect the flows of the Lee and Wairoa Rivers upstream of this site will also be taken into consideration, so as to represent the flow record at Irvines as unmodified (but ignoring modifications pre-WCD, such as the Roding water supply take).

Prior to the WCD becoming fully operational, Condition 6 also refers to the Tasman District Council Nursery recorder site (located at approximate map reference E1610750 & N5426777 (NZTM) (ie, immediately upstream of the Appleby Highway Bridge over the Waimea River)). This 'site' refers to flow measurements that are undertaken within 500 metres of the Tasman District Council Nursery depending on the river morphology at that time.

8 **Water Meter** means a device or system that:

(a) Takes continuous measurements.

Note: 'Continuous measurement' means that flow is **measured** continuously but not necessarily **recorded** continuously.

(b) Keeps records:

- (i) in cubic metres;
- (ii) specifying "zero" when no water is taken;
- (iii) in an auditable format;
- (iv) that must be able to be combined to cover each water year of the permit.

(c) Measures the volume of water taken:

- (i) to within +/-5% of the actual volume taken for water taken from a full pipe, or
- (ii) to within +/-10% of the actual volume taken for water taken by another method (including an open channel or partially full pipe).

(d) Is able to provide data in a form suitable for electronic storage, except that for meters existing as at 31 March 2012, manually recorded and reported data is accepted.

(e) Is suited to the qualities of the water it is measuring (such as temperature, algae content and sediment content).

(f) Is sealed and is as tamper-proof as practicable.

(g) Is installed either:

- (i) at the location from which the water is taken; or
- (ii) at the location specified by any approval granted in writing by the Council; and
- (iii) by a person who is appropriately accredited to install water meters.

(h) Has been verified as accurate by a person who is appropriately accredited¹ to verify the accuracy of water meters.

Verification was initially required by the date specified in the Resource Management (Measurement & Reporting of Water Takes) Regulations 2010. Reverification is required every 5 years thereafter under the Regulations.

¹ 'Appropriately accredited' in relation to installation and verification of water meters is accreditation under the Water Measurement & Reporting Industry Accreditation Programme (Irrigation NZ; February 2011) or a similar programme that provides both training and auditing.

- 9 The subject property is recorded as a potentially contaminated site (Historic Landfill Site). It is unclear if site remediation has been undertaken, however, gravel washing and crushing appears to have been undertaken on the site for many years. The applicant has not applied to disturb soil, undertake earthworks, subdivide or change the use of the land, and thus the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS) do not likely apply to this application.

Nevertheless, it appears that historic and ongoing land disturbance is occurring at the site and thus consent may be required under the NESCS. It is the applicant's responsibility to ensure they meet the permitted criteria of the NESCS. Should they not be able to comply with the permitted requirements of the standard, then resource consent must be applied for accordingly.

Map A – Council Lease No: 53319L1 and bore (southern end Bartlett Road)





RESOURCE CONSENT DECISION

Resource consent number: RM170570

Pursuant to Section 104B of the Resource Management Act 1991 ("the Act"), the Tasman District Council ("the Council") hereby grants resource consent to:

Downer New Zealand Limited

(hereinafter referred to as "the Consent Holder")

Activity authorised by this consent: To discharge water and associated sediment from a gravel washing operation via infiltration from a settling pond to the Waimea River.

Location details:

Address of property: Appleby Highway, Appleby
Valuation number: 1939018901
Location of site: Southern end of Bartlett Road
Legal description: (Part of) Lot 1 DP 368439, as shown in Map A attached, being (TDC) Lease #53319L1
Location co-ordinates: E: 1610008 N: 5423499 (NZTM)

Pursuant to Section 108 of the Act, this consent is issued subject to the following conditions and an expiry date of **30 November 2039**:

CONDITIONS

General

- 1 The Consent Holder shall ensure that the discharge is carried out in general accordance with the application RM170570 entitled 'Applications for Resource Consent: Downer NZ Ltd' dated 26 April 2017. In the event that there is any conflict between this document and any condition(s) of this consent, the conditions shall prevail including, for the avoidance of doubt, rates of discharge are as follows:

Discharge Rates Authorised: 11.7 litres per second
1200 cubic metres per week

Advice Note:

This consent does not authorise the discharge of any stormwater. Stormwater discharge from the site shall meet the relevant permitted activity rule criteria in the Tasman Resource Management Plan, or be authorised by a separate resource consent.

- 2 The settling ponds shall be regularly cleaned of accumulated sediment and maintained in efficient operating order at all times.

Receiving Water Standards

- 3 The discharge shall not cause in the receiving water any of the following:
- (a) the production of any visible oil or grease films, scums or foams, or conspicuous floatable or suspended material;
 - (b) any emission of objectionable odour;
 - (c) the rendering of freshwater unsuitable for consumption by farm animals; and
 - (d) any significant adverse effects on aquatic life.
- 4 The discharge shall not give rise to a decrease in the visual clarity of the receiving water greater than 40%, as measured by the black disc method. Measurements shall be taken 200 metres downstream from the point of discharge, or 100 metres downstream during low flows when the width of the wetted bed of the Waimea River at the point of discharge drops below 20 metres wide.

Erosion and Sediment Control

- 5 The Consent Holder shall:
- (a) take all practicable measures to minimise erosion and the discharge of sediment;
 - (b) install industry-recognised, best practice erosion and sediment control measures prior to the commencement of any discharge occurring; and
 - (c) ensure the measures referred to in clause (b) are maintained in a sound operating condition for the duration of the discharge. Furthermore, the measures shall be inspected to ensure they are operating effectively at least every 3 months as well as within 3 days following any significant rain and/or seismic event.

Groundwater

- 6 In the event of the Consent Holder's activities causing an adverse effect on any neighbouring well(s) that renders them unusable for domestic supply or their usual purposes, and provided the event is the result of the Consent Holder's activity, then the Consent Holder shall immediately arrange for an alternative domestic supply to the affected property(s). This supply shall be at no expense to the affected person(s) and shall continue until such time as the domestic supply(s) reverts to normal.

Unintended Discharges

- 7 Should the Consent Holder become aware of any unauthorised contaminant being discharged from their settling pond(s), the Consent Holder shall:
- (a) immediately take such action, or execute such work as may be necessary, to stop and/or contain the unauthorised discharge;
 - (b) immediately notify the Council by telephone of the unauthorised discharge;

- (c) take all reasonable steps to remedy or mitigate any adverse effects on the environment resulting from unauthorised discharge; and
- (d) report to the Council's Team Leader Monitoring & Enforcement in writing within 1 week on the cause of the unauthorised discharge and the steps taken or being taken to effectively control or prevent such a discharge occurring again.

Review

- 8 Council may, for the duration of this consent and within the 3 month period following the anniversary of its granting each year, review the conditions of the consent pursuant to Section 128 of the Resource Management Act 1991 for the purposes of:
- (a) dealing with any unexpected adverse effect on the environment which may arise from the exercise of the consent and which is appropriate to deal with at a later stage;
 - (b) requiring the adoption of the best practical option to remove or reduce any adverse effects on the environment; and/or
 - (c) to comply with requirements of any relevant water conservation order, national environmental standard, regional or district plan (including following a plan change becoming operative) and/or any other relevant legislation, including matters relating to minimum standards relating to water quality.

ADVICE NOTES

- 1 This resource consent only authorises the activities described above. Any matters or activities not referred to in these consents or covered by the conditions must either: 1) comply with all the criteria of a relevant permitted activity rule in the Tasman Resource Management Plan (TRMP); 2) be allowed by the Resource Management Act; or 3) be authorised by a separate consent.
- 2 Section 125 of the Resource Management Act 1991 states that a consent shall lapse where it is not given effect to within 5 years of its granting.
- 3 Section 126 of the Resource Management Act 1991 states that the consent may be cancelled upon not less than 3 months' notice in writing if the consent remains unexercised without good reason for any continuous period exceeding 5 years.
- 4 Access by the Council or its officers or agents to the land subject to this resource consent is reserved pursuant to Section 332 of the Resource Management Act.
- 5 This consent is not an authority to gain access to the site of the discharge. The site of the discharge is land and riverbed for which the Tasman District Council holds title and the Consent Holder is lessee.

REASONS FOR THE DECISION

Background and Proposal

This application is for a water permit to take water from one of the Waimea Plains Water Management (Sub) Zones, and an associated discharge permit for the discharge of water and associated sediment to the Waimea River. Water is taken from a shallow bore adjacent to the Waimea River and then used as part of a gravel washing process. Following the gravel wash, water is discharged into three settling ponds, moving progressively closer to the Waimea River. Sediment settles out in the ponds and then water (and potentially some remaining sediment entrained in the water) is discharged diffusely through gravels to the Waimea River (from the 'river' pond closest to the river). It is noted that gravel is reportedly crushed on-site after it has been washed. Water is not used in the crushing operation. The existing operation has been occurring for a number of years (reportedly since at least 1971), with the consents last renewed in 2002.

Many of the Waimea Plains sub-zones are over-allocated in relation to the sustainable allocation targets and limits detailed in the Tasman Resource Management Plan (TRMP). Much of this over-allocation has arisen due to historic allocation of water beyond what are now considered to be sustainable allocation limits for the various sub-zones. This over-allocation has led to poor environmental outcomes, a poor reliability of supply for existing water users and an unsustainable use and management of the water bodies on the Waimea Plains. Council has signalled that the preferred option to address this over-allocation is the construction and operation of an augmentation scheme (being the Waimea Community Dam (WCD) in the Lee Valley). Water will be stored in the WCD and released into the Lee River (which subsequently flows into the Wairoa and Waimea Rivers), in order to address the above detailed issues associated with over-allocation.

There are approximately 330 water permits on the Waimea Plains (spread throughout the various sub-zones) and most of these permits expired in May 2016 or May 2017. The permits have been under a processing time frame extension awaiting a decision on whether or not the WCD would proceed. In late 2018, Council decided to proceed with the construction of the WCD. Following this decision, Waimea Plains' water permit holders were asked to advise whether or not their permit would be affiliated to the WCD. Affiliation refers to the holding of a water permit that is linked to the release of a sufficient quantity of water from the WCD, with this 'link' being demonstrated by the provision of either a Water Supply Agreement or any other such applicable agreement that relates to the sufficient release of water from the WCD. Conversely, unaffiliated permits refer to a water permit that is not linked to the release of water from the WCD (ie, a permit that operates under an allocation and rationing regime as if the WCD did not exist).

Whilst all ~330 Waimea Plains water permit applications are processed as replacement applications under the TRMP, they are processed under different rules (being 31.1.2.2 for unaffiliated permits and 31.1.2.3A for affiliated permits). Affiliated and unaffiliated water permits differ in three main ways, with differing methods for calculating the consented volume, a differing rationing regime and a differing transitional (dam construction period) arrangement. Unaffiliated permits are likely to experience much more severe and frequent rationing than affiliated permits and are also subject to a more strict bona fide review assessment (detailed below). Downer New Zealand Limited ('the applicant') has elected to have their water permit RM170569 as unaffiliated to the WCD.

In order to calculate the consented weekly volume and rationing restrictions for unaffiliated water permits, Rule 31.1.2.2(f) is very prescriptive. For industrial/commercial uses (such as this case) the weekly volume is based on the maximum 10 year (2003-2013) weekly use. The rationing required under Rule 31.1.2.2 and TRMP Schedule 31C is also prescriptive and

is reflected in Conditions 6 and 7 of decision RM170569. Further detail of the above can be viewed in the TRMP.

The applicant is seeking to replace expiring resource consent NN020104 in the Waimea West Zone. The expiring consent authorises the taking and use of up to 1200 cubic metres (m³) / week (wk) of groundwater for gravel washing. The take is from shallow bore WWD608 adjacent to the Waimea River. The maximum rate of take authorised is not stated on the existing consent, but an average weekly rate is 2.0 litres per second (L/s). The applicant has elected to have their permit as unaffiliated to the WCD. The applicant seeks to increase the maximum pump rate to 11.7 L/s. No other changes are sought. As detailed below, the revised bona fide volume for this replacement consent RM170569 is 1200 m³/wk.

Secondly, the applicant also seeks to replace associated expiring discharge permit NN020105 (new number RM170570). Expiring consent NN020105 authorises the discharge of water and associated sediment from a gravel washing operation via infiltration from a settling pond to the Waimea River. No changes are sought.

Tasman Resource Management Plan Rules Affected

The water take proposal RM170569 does not meet the criteria of TRMP Permitted Activity Rule 31.1.2.1 (in particular, the sought volume exceeds 5 m³/day). The proposed activity meets the criteria of TRMP Controlled Activity Rule 31.1.2.2 and is classified accordingly.

There are no relevant TRMP permitted activity rules relating to the proposed discharge under RM170570. The proposed discharge is classified as a Discretionary Activity under TRMP Rule 36.2.3.1.

Given the interlinked nature of the applications, the applications are bundled and classified as a **Discretionary Activity**.

From the information provided by the applicant, it appears that the proposal complies with all other relevant permitted activity rules in the TRMP.

Principal Issues (Actual and Potential Effects on the Environment)

It is considered that the actual and potential effects of the proposed activities on the environment are no more than minor. Furthermore, it is considered that the actual and potential effects of the take and use of water on all persons, including neighbouring owners and occupiers, are less than minor. Further detail on the principal issues is provided below.

It is noted that whilst the bundled activity is classified as a Discretionary Activity, the water take permit application RM170569 has generally been processed and considered against the methodology and rule criteria in Rule 31.1.2.2, as this is specific to unaffiliated water permits on the Waimea Plains.

Bona Fide Use

The applicant has been required to meter their take under previous consent NN020104 for at least 15 years. The methodology for assessing bona fide use is detailed above. The bona fide volume calculated in accordance with the methodology in Rule 31.1.2.2(f) has been calculated as 1200 m³/wk. This weekly volume is based on 10 year (2003-2013) use (see the bona fide assessment report on the consent file for further detail). There appears to be ongoing future demand for water at the site.

Effect of the take, in combination with other takes, on sustainable river flows and aquatic ecology

The 'background' section above details the historic over-allocation of water in many of the Waimea Plains sub-zones, the subsequent adverse outcomes that are arising from this over-allocation and the mechanisms in place to address this over-allocation. In regards to unaffiliated water permits, the TRMP provisions relating to a strict bona fide (volume) review assessment and the imposition of rationing restrictions are detailed above.

It is considered that the granting of this (replacement) unaffiliated water permit, in combination with all other replacement water permits in the zone (including all other affiliated and unaffiliated permits being replaced alongside this application), will be consistent with the provisions of the TRMP. This includes the provisions for unaffiliated permits relating to the recalculation of the weekly volume and the imposition of new rationing restriction conditions. It is therefore considered that the adverse effect of the take, in combination with other takes (both affiliated and unaffiliated), on sustainable river flows and aquatic ecology, will be no more than minor.

Effect of the take, in combination with other takes, on other water takes

The applicant does not seek to alter the consented groundwater bore, maximum pump rate or any aspect of the operation from what has previously been authorised. No known issues have arisen to date. It is considered that the take will not inhibit or limit any other water taker(s) from lawfully taking water.

Demand and efficient use and allocation of water

Past meter records indicate the volume of water authorised is as is typically required for the current gravel washing operation. A condition is included that the Council may request a property water management plan at a later date. Any such plan shall demonstrate water is used efficiently and appropriately.

Effects of the use of water on water quality

The operation of the site is detailed in the background section above. The proposed use of water and discharge of water and associated sediment has the potential to adversely affect the quality of the Waimea River.

In order to mitigate these potential adverse effects, the applicant has constructed a three pond system whereby water is discharged to after being used for gravel washing. The ponds allow for settling out of sediment before water is discharged diffusely through gravels to the Waimea River (thus providing further infiltration of entrained sediment).

The current operation has been occurring for a number of years (reportedly since 1971), with the consents last renewed in 2002. No known issues have arisen to date.

The applicant does not propose to alter their current operation, and conditions are included to ensure best practice measures are installed and maintained in order to minimise the discharge of sediment, as well as a minimum standard relating to visual clarity in the receiving water body (to be maintained at all times). It is lastly noted that erosion is likely to be minor or negligible given the discharge is diffuse through gravels.

Effects of the take and use on Tangata Whenua values

The site is not located within a Cultural Heritage Area.

The Waimea River (and its tributaries) is a Statutory Acknowledgement Area (SAA) for eight iwi - Ngāti Kuia; Ngāti Rārua; Ngāti Tama ki Te Tau Ihu; Te Ātiawa o Te Waka-a-Maui; Ngāti Toa Rangatira; Rangitāne o Wairau; Ngāti Koata and Ngāti Apa ki te Rā Tō. Te Tau Ihu – Statutory Acknowledgments (2014) details the particular values that each of the aforementioned iwi have in relation to the Waimea River and its tributaries. There is a particular focus on water quantity and quality as well as the intrinsic values and mauri of water. The document also details how the river and surrounding areas was and is an important area for the growing and gathering of mahinga kai for many iwi; an important fresh water source, including for gardens and pā near the mouth and elsewhere along its banks for many iwi; and an area with many wāhi tapu for many iwi. The document also details a desire of many iwi to be actively involved in the management of the river and the inclusion of mātauranga Māori into this management.

All relevant iwi have been advised of receipt of all Waimea Plains replacement water permit applications. Council has also met with a number of iwi representatives and the process and the provisions of the relevant TRMP rules were discussed. Comments were received from many iwi (including through iwi authorities) as well as in meetings. The comments were mainly in relation to the Waimea water permit replacement applications as a group, rather than on any one particular application, and related to further specific detail of the replacement permit process and the TRMP provisions. Some iwi considered themselves as an affected party for the Waimea replacement applications as a whole (affiliated and unaffiliated).

All relevant iwi were also advised of receipt of the discharge permit application and comments from five iwi were received. Two iwi responded stating that the discharge of sediment to water is an issue for freshwater species, particularly where the receiving water body is a SAA. Three other iwi requested a Cultural Impact Assessment (CIA) be undertaken by the applicant.

It is considered that two of the areas of particular interest to all relevant iwi relate to water quality and quantity. As detailed above, the adopted permit conditions are to ensure effects on water quantity and quality are carefully managed and mitigated, and adverse effects are no more than minor. Furthermore, the water take application is consistent with the prescriptive provisions of TRMP Rule 31.1.2.2 (for unaffiliated permits). The proposed activity, including the discharge, has been authorised for a number of years (the last permits were renewed 17 years ago) and no known issues have arisen to date. Given the recommended consent conditions and the historic performance of the operation, it is considered onerous and unjustified in this particular case to request the provision of a CIA for the proposed discharge.

Given the above, it is considered that the effects of the take and use of water, in combination with all other takes and uses, as well as the effects of the proposed discharge, on Tangata Whenua values and the designated SAA, are likely to be less than minor.

Other Matters

Metering: The take is subject to metering requirements under Section 4 of the Resource Management (Measurement & Reporting of Water Takes) Regulations 2010. A condition is included to give effect to these Regulations, including verification.

Amenity and Noise: No changes are sought to the pump rate or location. Conditions and mitigation measures are also included to ensure the discharge does not adversely alter the visual clarity of the Waimea River. No known issues have arisen to date.

Access: The site is Waimea Riverbed land. Separate authorisation from the relevant landowner / land administrator is required (for access). An Advice Note to this effect is included. No known issues have arisen to date.

Contaminated Site: The subject property is recorded as a potentially contaminated site (Historic Landfill Site). It is unclear if site remediation has been undertaken, however, gravel washing and crushing appears to have been undertaken on the site for many years. The applicant has not applied to disturb soil, undertake earthworks, subdivide or change the use of the land, and thus the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS) do not likely apply to this application.

Nevertheless, it appears that historic and ongoing land disturbance is occurring at the site and thus consent may be required under the NESCS. It is the applicant's responsibility to ensure they meet the permitted criteria of the NESCS. Should they not be able to comply with the permitted requirements of the standard, then resource consent must be applied for accordingly.

Non-consumptive take: Council acknowledges that some of the take may be non-consumptive (given the discharge consent RM170570). However, the applicant has not sought any recognition of this non-consumptive element and has provided no evidence of what portion of the take is non-consumptive. Furthermore, there is no real time metering of the discharge, there is no modelling and no estimation of evapotranspiration from the settling ponds. Should the applicant wish to get acknowledgment for the discharge (and thus non-consumptive portion), then they will need to submit more information with a variation application.

Relevant Statutory Provisions

In considering this application, regard was given to the matters outlined in Section 104 of the Act. In particular, regard was given to the relevant provisions of the following planning documents:

- (a) the Tasman Regional Policy Statement (TRPS);
- (b) the Tasman Resource Management Plan (TRMP);
- (c) the Resource Management (Measurement & Reporting of Water Takes) Regulations 2010 (RMWTR);
- (d) the National Policy Statement for Freshwater Management 2011 (NPSFM); and
- (e) the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS).

Most of the objectives and policies contained within the TRPS are mirrored in the TRMP and the activity is considered to be consistent with the relevant objectives and policies contained in Chapters 30 and 31 of the TRMP. Furthermore, the proposal is also consistent with the relevant provisions of the RMWTR, the NPSFM and the NESCS.

The proposed discharge contravenes Section 15 of the Act. Council has therefore also had regard to the matters outlined in Section 105 of the Act. No reasonable or practicable alternatives exist and the effects of the proposal are no more than minor. Council is also satisfied that the activity will not give rise to the effects outlined in Section 107 of the Act.

Part II Matters

The relevant principles outlined in Sections 6, 7 and 8 of the Act have been taken into account and it is considered that granting this resource consent achieves the purpose of the Act as presented in Section 5.

Notification and Affected Parties

The adverse environmental effects of the activities are considered to be no more than minor. The Council's Resource Consents Manager has, under the authority delegated to them, decided pursuant to Section 95 of the Act that the application did not require public or limited notification.

This consent is granted on 26 July 2019 under delegated authority from the Tasman District Council by:



Samuel Nevin
Consent Planner

