

BEFORE THE HAWKE'S BAY REGIONAL COUNCIL

APP-126684

UNDER

The Resource Management Act 1991 ("**RMA**"
or "**the Act**")

IN THE MATTER

of a resource consent application to the
HAWKE'S BAY REGIONAL COUNCIL for
various resource consents for the operation,
upgrading and maintenance of the
Ravensdown Napier Works Fertiliser Plant
and the establishment and maintenance of a
Wetland Restoration Project.

**STATEMENT OF EVIDENCE BY STEPHEN GRAEME DAYSH ON BEHALF
OF RAVENSDOWN LIMITED**

16 November 2022

1. INTRODUCTION

- 1.1 My name is Stephen Daysh. I am a partner with the firm Mitchell Daysh Limited, which practices as a planning and environmental consultancy throughout New Zealand, with offices in Auckland, Hamilton, Tauranga, Napier, Nelson and Dunedin.
- 1.2 I hold a Bachelor of Regional Planning (Honours) degree from Massey University and have over 35 years' experience as an environmental planner and project manager. I am a member of the New Zealand Planning Institute, the Resource Management Law Association, the New Zealand Geothermal Association, and the International Geothermal Association.
- 1.3 My specialist areas of practice include providing resource management advice to the private and public sectors, facilitating public consultation processes, undertaking planning analyses, managing resource consent acquisition projects, and developing resource consent conditions. I also have considerable experience as a process and meeting facilitator with a speciality in co-ordinating community-based option assessment processes for planning issues, often utilising multi-criteria evaluation methodologies.
- 1.4 I am an accredited Hearings Commissioner (with a Chair's endorsement) and have acted as a Hearings Commissioner on approximately 100 occasions, many in the role of Hearing Chair.

2. CODE OF CONDUCT

- 2.1 I confirm I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2014. My evidence has been prepared in compliance with that Code and I agree to follow it when presenting evidence to the Hearing.
- 2.2 I confirm that my evidence is within my area of expertise except where I state that I am relying upon the specified evidence of another person, and that I have not omitted to consider material facts known to me that might alter or detract from my expressed opinions.

2.3 I understand and accept that it is my overriding duty to assist the Hearing Panel in matters that are within my expertise as a planner. I understand my role is to assist impartially on the relevant matters within my area of expertise and that I am not an advocate for the party that has engaged me.

3. RELEVANT EXPERIENCE AND EXPERTISE

3.1 Most of my practice has been in New Zealand, where I have worked on planning projects in many regions, but I also have experience with environmental permitting and decision making in other jurisdictions, namely Indonesia and the Pacific Islands.

3.2 In relation to this hearing my particular fields of experience and expertise are:

- a) Acting as Project Manager / Lead Consultant for applicants undertaking feasibility assessments and the consenting or re-consenting of large infrastructure and industrial developments, including briefing and coordinating experts to undertake the necessary range of environmental investigations and assessment reports;
- b) Designing and facilitating community based alternatives assessment processes for a wide range of planning issues, often utilising multi-criteria evaluation methodologies;
- c) Assessing environmental effects and developing mitigation and/or compensation packages for identified adverse effects, where avoidance or remediation of effects cannot practically be implemented;
- d) Working in consultation with Māori to ensure appropriate recognition and inclusion of relevant cultural values and interests in project feasibility processes, alternatives assessments, and in the avoidance, remediation or mitigation of identified effects; and
- e) Drafting fair, effective and workable resource consent conditions (along with other mechanisms such as private agreements in some instances) for resource consents and designations.

4. BACKGROUND AND SCOPE OF EVIDENCE

4.1 Mitchell Daysh Limited was engaged by Ravensdown Limited (“Ravensdown”) in November 2019 to provide strategic resource

management and consultation advice as a part of the Core Project Team for the application for new and replacement water and discharge permits, and land use consents required for the operation, upgrading and ongoing maintenance of the Ravensdown Napier Works Fertiliser Plant.

- 4.2 I, along with my colleague Anita Anderson, briefed the technical experts engaged to provide technical advice and effects assessment reports, managed the preparation of the consent application and section 92 response documents and drafted the proposed consent conditions lodged as part of the application package, with advice from the Ravensdown expert technical team, and Plant Manager Andrew Torrens.
- 4.3 As is good practice in my experience, the condition set has been the subject of a number of reviews throughout the latter parts of the project and has benefited from input from various parties including the Applicant's legal team and technical experts, submitters and mana whenua. A number of changes to the proposed conditions recommended by Council experts have also been incorporated.
- 4.4 These conditions have been accepted and agreed by the Council as detailed in the s42a Officers Report dated 31 October 2022, with some minor suggestions for changes to the conditions in section 15.1 of the report. The applicant team reviewed these suggestions and proposed some changes / additions to the conditions via an email on 3 November 2022. A full set of revised proposed conditions from those appended to the s42a Officers Report incorporating these and other minor changes are attached (16 November 2022 version).
- 4.5 The s42a Officers Report also recommended a consent term of 35-year duration for the "long term consents"¹ (being the air, land and water discharges and the water take associated with the operation of the plant and the water treatment system) and a 10-year duration for the consents related to enabling works for the stormwater and process water treatment facilities and the wetland enhancement project ("HARP").

¹ Section 16, s42A Officers Report

4.6 The Chair of the Hearing Panel² directed submitters to respond to the Revised Proposed Conditions and additional information (as circulated on 10 October 2022) provided to submitters by 5.00 pm Wednesday, 2 November 2022 including advice as to whether:

(a) Any specific additional wording changes to the Revised Conditions are sought by them; and/or

(b) They continue to wish to be heard regarding any outstanding issues remaining at that point.

4.7 No responses were received by this deadline, however subsequent to this Shade Smith on behalf of one of the submitters, Ngati Kahungunu Iwi Inc (“NKII”), advised on Friday 4 November that NKII oppose a consent duration of 35 years.

4.8 In addition to this, Reynold Ball, on behalf of Te Whatu Ora - Health New Zealand (“Te Whatu Ora”) (formerly the Hawke’s Bay District Health Board), provided a response on 4 November 2022 commenting on the review conditions and noting that “*Health no longer wishes to be heard in relation to their submission*” unless “*other submitters feel the need to take outstanding issues to a hearing that may change consent conditions, then Health would still like to be heard*”. *In-part Health would be supporting the term of consents and conditions, however would take the opportunity to talk to the points raised above, and consider points from other submitters*”.

4.9 The purpose of my evidence is to set out the reasons that, in my opinion, a 35-year term is suitable and appropriate for the Ravensdown air, land and water discharges and the water take associated with the operation of the plant and the water treatment system, and to comment on the review condition proposed in response to the points raised by Te Whatu Ora

5. RAVENSDOWN CONSENTING JOURNEY

5.1 Through the process of developing the resource consent application package Ravensdown has made a significant commitment to minimise and

² Para 12, Minute of the Chair of the Hearing Panel dated 28 October 2022

manage the effects of its activities on the receiving environment to better align with the company's goals of ensuring that all aspects of its business are undertaken in a sustainable way.

- 5.2 This commitment from Ravensdown and for the Napier Works is based on future-focused environmental outcomes and is reflected in the proposed set of integrated consent conditions.
- 5.3 As outlined in the November 2021 Assessment of Environmental Effects document, Ravensdown is a significant contributor to the employment and economic environment of Hawke's Bay having manufactured fertiliser at the Napier Works site since 1953. The current plant and equipment at the site have an assessed replacement value of approximately \$242 million.
- 5.4 The future focused approach to this current consenting process is based on an absolute commitment to an extensive program of new works in relation to both the site's air and water discharges and a commitment to ensuring that the treated water which is either discharged to land via irrigation, or which reaches the Waitangi Estuary area, has very low levels of contaminants. In my view this strategic and forward-looking approach as it relates to water related discharges in particular, aligns with the expectations of the NPS-FW (and in particular the concept of Te Mana o te Wai) and the proposed TANK Plan Change water quality discharge standards well ahead of the Hawke's Bay Regional Council's 2040 target. Ravensdown is achieving this outcome through the implementation of a sophisticated staged water treatment system for the site stormwater and process water.

6. MANA WHENUA ENGAGEMENT AND SUPPORT

- 6.1 Further to the comprehensive conditions and financial commitment (described below), Ravensdown has also committed to the development of an enduring relationship with mana whenua.
- 6.2 Ravensdown recognised the significance to the site and the surrounding environment to mana whenua early in the resource consent process. The involvement of mana whenua representatives in the comprehensive discharge options analysis undertaken by the Technical Focus Group

informed the water discharge hierarchy outlined in proposed consent condition 1 of the General Conditions relating to the land and water discharge permits. Mana whenua members of the TFG were clear that a preferential discharge to land via spray irrigation is the preferred option for the discharge of the treated stormwater and process water from the site.

6.3 In addition to this, the collaborative approach to developing the proposed Mana Whenua Recognition and Participation conditions within the consent has provided the opportunity for mana whenua to assist Ravensdown in the implementation of aspects of the consent the via the Awapuni Reference Komiti including through:

- Provision for Mātauranga Māori through mauri monitoring.
- The establishment and recruitment of a new Kaihāpai Taiao role.
- Implementation of the recommendations set out in the Cultural Values reports provided with the application, including a Whataangaanga Cultural Heritage Project.
- Championing opportunities for habitat abundance enhancement with other local industries and discharge consent holders, in addition to the HARP within the wider Waitangi Estuary catchment.

6.4 Ravensdown and representatives of mana whenua, including NKII (on invitation of representatives of Kohupatiki Marae), met throughout 2022 to discuss and develop the ongoing relationship, and collaboratively draft and finalise the Mana Whenua Recognition and Participation conditions. The mana whenua roopuu supported the final wording of the conditions at the final meeting on 6 October 2022 and subsequently via email. At the final 6 October 2022 meeting Shade Smith suggested that a 35-year term might be appropriate, if Ravensdown committed to further wetland enhancement over and above the HARP project. I explained it would be more appropriate for Ravensdown (supported by the Awapuni Reference Committee) to champion this outcome, working in with other businesses and HBRC, as the having the main stormwater discharge into the Waitangi Estuary. This was agreed and proposed condition 30(b) of the General Conditions relating to

the land and water discharge permits was strengthened to elaborate on this “championing role”.

- 6.5 As a result of this collaborative process, Ngāti Pārau Hapū Trust have provided its support for a 35-year consent term (letter dated 28 October 2022 - attached).
- 6.6 In addition to this process with the mana whenua, and as suggested in section 15.1 of the s42A Officers Report, Ravensdown provided a draft “preamble” via email to respond to submitters views (including that of NKII³ and Forest and Bird⁴) that the consents should “give effect to Te Mana o Te Wai”. The following “preamble” is based on the precedent set in another recently granted HBRC resource consent, which I understand was written collaboratively with a Planner representing NKII as part of the preparation of a Joint Witness Statement for that project⁵, and is proposed to be added above condition 1 of the General Conditions relating to both Land and Water Discharge Permits.

PREAMBLE

The purpose of these consents is to enable the ongoing operation of the Ravensdown Napier Works. The effects of the authorised activities have been considered in the context of the current and likely future state of the receiving environments, including other activities and how they contribute to those environments. The intent is that the undertaking of activities by the consent holder in accordance with the conditions of these consents will positively contribute to Te Mana o te Wai.

- 6.7 In my view, the inclusion of this “preamble”, the collaborative and supportive mana whenua engagement process, and the changes made to the consent conditions with mana whenua appropriately responds to all of the submission points made by NKII.

³ NKII Submission, 18 February 2022

⁴ Email to S Exeter, 3 November 2022

⁵ Joint Witness Statement of Simon Bendall, Grey Wilson & Sven Exeter, 26 May 2022

7. CONSENT REVIEW CONDITIONS

- 7.1 The letter provided by Te Whatu Ora⁶ refers to the proposed consent review condition 62 of the air discharge permit. Over the course of the conditions review process at expert conferencing, the prehearing meetings and with the Council Consents planner, Ravensdown has modified this condition to address points made by Te Whatu Ora.
- 7.2 The review conditions provide both for any council review as a result of changes to regional or national policy and planning documents, and for requiring Ravensdown to implement any continual improvement projects recommended in the 10 Year Technology reviews, that are not implemented by the consent holder itself. It is my view that this combination of the review conditions as proposed⁷, alongside the Technology Review condition (proposed condition 57) goes above and beyond typical review clauses in other similar resource consent conditions I have been involved in and in planning terms no further changes are required or necessary to ensure an appropriate resource management outcome.

8. CONSENT TERM

- 8.1 Section 14 of the s42A Officers Report notes that both the Hawke's Bay Regional Resource Management Plan ("RRMP") and the Hawke's Bay Regional Resource Management Plan ("RCEP") allow for a consent duration of up to 35 years. Consents for other regionally significant physical resources have been granted by the Hawke's Bay Regional Council in recent years in accordance with these policies⁸.
- 8.2 The "high bar" approach to its discharge management volunteered by Ravensdown is highly commendable, forward looking and has a strong social license given we are at this hearing today with no submitters opposing grant of consent based on the inclusive pre-hearing process directed by the Hearing Panel.

⁶ Letter, 4 November 2022

⁷ Proposed conditions version dated 16 November 2022 - Air discharge permit, conditions 57 and 63, and General Conditions relating to the land and water discharge permits, conditions 33 and 34.

⁸ Pan Pac Forest Products Limited - Ocean Discharge

- 8.3 I can see no planning reasons why a 35-year term should not be granted for the following reasons.
- 8.3.1 Selection of the preferred land-based discharge environment for the water discharge permit as recommended by all parties in the TFG, including mana whenua.
 - 8.3.2 The company has done all the work necessary for the effective long-term management of the site through its three proposed Management Plans that have clear objectives, methods of implementation and outcome related provisions.
 - 8.3.3 The volunteered 10 Year Technology Reviews, combined with the very comprehensive Council review conditions means that there is every safeguard needed for the hearing panel to be confident that the high standards Ravensdown has set itself will be maintained (and indeed potentially improved through the continual improvement elements of the Technology Reviews) over a 35-year consent term.
 - 8.3.4 The agreed package of Mana Whenua Recognition and Participation conditions (conditions 26 to 31) that outline ongoing involvement in environmental management of the Ravensdown Napier Works and surrounds for the whole life of the resource consent term.
- 8.4 The carefully crafted and effective review conditions outlined above, when combined with the ongoing regulatory compliance functions of the Regional Council, gives me confidence that there is little to no risk to the environment of granting a 35-year term.
- 8.5 I have been involved in many new and re-consenting infrastructure projects where clients like Ravensdown had also volunteered comprehensive and robust discharge conditions, combined with solid review conditions and with mana whenua involvement and support were granted a 35-year term. The four examples below are useful comparisons, which I am happy to expand on if required:

- Contact Energy Hauāuru mā Raki Wind Farm – Board of Inquiry
- Contact Energy Te Mihi Geothermal Power Station – Board of Inquiry
- Contact Energy Tauhara Geothermal Power Station – Board of Inquiry
- Pan Pac Forest Products Ocean Outfall – Environment Court

8.6 After considering evidence with similar conditions to what Ravensdown has proposed, the decision makers above granted long term resource consents.

8.7 Ravensdown has committed to significant capital costs in relation to the proposed activities where the upgrade works associated with the site air discharges is approximately \$30 million, and proposed water treatment improvement works and the HARP, is estimated to be in the order of \$10 million. This is a significant capital cost to set up the Napier Works as a long-term sustainable site.

8.8 In addition to these capital costs the associated operational costs and the overall obligation for Ravensdown as a result of the proposed consent conditions over a 35-year term is significant. It is important to recognise that this has resulted from a genuine commitment to achieve the outcomes for the betterment of the receiving environment and stakeholder relationships.

8.9 It is also noted that following the receipt of the updated consent conditions, both Ngāti Pārau Hapū Trust and Te Whatu Ora have provided written support for the 35-year term of consents.

9. CONCLUSION

9.1 In my view, the process taken by Ravensdown to get to this point where there are no outstanding technical issues and there is a strong relationship with mana whenua, has been exemplary and should be considered a gold standard example for re consenting of industrial and process industries.

9.2 It is my opinion that a 35-year term can well and truly be justified in resource management terms for these resource consents based on the well-considered and inclusive TFG recommendations regarding the air and water

discharge strategies and the resource consent conditions proposed,
developed by, and agreed by all parties.

Stephen Daysh

16 November 2022

**ATTACHMENT 1: REVISED PROPOSED CONDITIONS SET - 16 NOVEMBER
2022**

ATTACHMENT 2: NGATI PĀRAU LETTER OF SUPPORT

Andrew Torrens
Napier Works Manager
Ravensdown Limited
200 Waitangi Road, Awatoto
NAPIER

28 October 2022

Kia ora Andrew

Ravensdown Napier Works – Applications to renew resource consents

I would like to thank you and the Ravensdown team for the thorough process you have undertaken in involving and engaging with mana whenua throughout the Ravensdown consent process.

The opportunity to be involved in the processes of choosing the primary land-based water treatment and discharge system, working up the HARP wetland proposal, preparing the two CIAs, and co-drafting the agreed set of Mana Whenua Recognition and Participation conditions has been appreciated, and one which we feel is good practice.

On behalf of Ngāti Pārau Hapū Trust, we are comfortable with the granting of these consents for a 35-year term based on the terms and conditions proposed by the applicant, and as agreed by the mana whenua roopuu and relevant experts during the pre-hearing process.



Ngā mihi
Chad Tareha
Chairman, Ngāti Pārau Hapū Trust

