

Before Hawkes Bay Regional Council and Hastings District Council

In the matter of the Resource Management Act 1991

And

In the matter of Application by Te Mata Mushroom Company Ltd (**TMM**) to
Hawkes Bay Regional Council (**HBRC**) to discharge contaminants
into air from a composting and mushroom growing operation at
174 – 176 Brookvale Road, Havelock North (**air discharge
application**)

And

In the matter of Application by TMM to Hastings District Council (**HDC**) to increase
production of mushrooms from 25 tonnes per week to 100
tonnes per week, including increased compost production,
extending existing and constructing new buildings and
retrospective consent for an oxidation pond at 174 – 176
Brookvale Road, Havelock North (**land use application**).

**Supplementary Evidence of Philip Brown for Hastings District Council as Submitter
Resumed Hearing - Planning**

Dated 26 September 2019

INTRODUCTION

1. My name is Philip Brown and I have the qualifications and experience set out in my primary evidence dated 24 July 2019. I confirm this supplementary evidence has been prepared in compliance with the 'Expert Witnesses Code of Conduct' contained in the Environment Court of New Zealand Practice Note 2014. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

REVISED PROPOSAL

2. I have read the details of the amended proposal as described in:
 - (a) The memorandum of counsel for Te Mata Mushroom Company Ltd (**TMM**) in response to Directions of Commissioner Hearing Panel: No 3, dated 30 August 2019;
 - (b) The document titled 'TMM → Pathway to Total Enclosure' provided with that memorandum;
 - (c) The additional drawing provided with the memorandum of counsel for TMM dated 2 September 2019;
 - (d) Supplementary evidence of Tracy Freeman concerning the amended proposal, dated 17 September 2019.
3. I have also read the evidence prepared by Jason Pene in relation to the air quality implications of the amended proposal.
4. As summarised in Mr Pene's evidence, the amended proposal involves:
 - (a) Step 1 - Constructing a Phase 1 filling hall;
 - (b) Step 2 - Then constructing a third Phase 1 bunker, and a Phase 2 filling hall, with the conveyor between Phase 1 and Phase 2 being encapsulated;
 - (c) Step 3 - Then installing the bale breaker and conveyor within an enclosure, with the addition of a chicken manure hopper.

5. TMM is proposing Increases in volume after completion of Step 2, from 120 tonnes to 160 tonnes, and then after completion of Step 3, from 160 tonnes to 350 tonnes.
6. At the date of preparing this supplementary evidence, no draft conditions had been circulated to reflect the amended proposal. I understand from Mr Pene’s evidence that conditions would be required to ensure adequate extraction and treatment capacity are provided to cope with the volumes of compost being handled. Subject to reviewing conditions to that effect, Mr Pene’s view is that the amended proposal will better control odour from the composting proposal than the original proposal and provides a fairly high level of confidence that there will be no offensive and objectionable odours beyond the boundaries of the TMM site.

PLANNING COMMENTS ON AMENDED PROPOSAL

7. My primary evidence concluded, at para 39:

I am of the opinion that consent should be refused unless the Commissioners are able to be satisfied with regard to the efficacy of proposed odour mitigation measures, including their effectiveness in mitigating existing adverse effects.

8. Based on Mr Pene’s evidence, I understand that the amended proposal offers significantly more certainty that the proposed odour mitigation measures will be effective at avoiding off-site adverse odour effects.

9. I then commented, at para 40, that:

If consent is to be granted, I consider that increases in compost production should only occur following installation of the proposed odour mitigation measures and confirmation that they are effective and fit for purpose. I support the retention of an unequivocal condition requiring that there be no objectionable or offensive odour beyond the boundary of the site.

10. For the reasons set out in paras 27 -31 of my primary evidence, and as discussed with the Commissioners when I gave my evidence at the first hearing, I continue to consider that the retention of a “no offensive or objectionable odour beyond the boundary” condition is very important. This condition plays an important role in setting the ‘bottom line’ for odour management at the site and sets a clear standard for what is expected of TMM’s operation. I reiterate the point made in my primary evidence (at paras 30 and 31) that this condition is not necessarily

breached if odours are discernible beyond the boundary, as a determination as to whether the odour an odour is '*offensive and objectionable*' would be undertaken on a discretionary basis in accordance with the FIDOL factors. Those factors account for a range of considerations including the frequency and intensity of odours.

11. In terms of whether increases in production should only be permitted following installation of all stages of the odour mitigation measures, I note Mr Pene's evidence at para 20 where he states that odour from bale breaking will continue to be unmitigated until Step 3 is implemented. He expects that an increase in compost production from 120 tonnes to 160 tonnes would likely increase odour from this source. For this reason, I remain of the opinion that there should be no increases in compost production volume until all mitigation measures are implemented and shown to be effective.
12. My primary evidence also made comments about the timing of the mitigation stages and the fact that the applicant was proposing that the time limits should exclude the time for obtaining building consent. I reiterate my comments at para 21 that the time for processing a building consent should not be excluded from any time limits imposed on the consent holder within which it is required to implement mitigation measures.
13. I understand from evidence given at the first hearing that the bale breaking machine, which is Step 3, will take 30 months to commission. However, I do not consider that the times requested for Steps 1 and 2 have been adequately explained, and my initial impression is that they seem unnecessarily long. Given that the measures are required to address existing adverse odour effects being experienced by the community, I consider that Steps 1 and 2 should be required to be implemented as soon as reasonably practicable, ideally within a year of consent being granted.

CONCLUSION

14. I understand the amended proposal, when fully implemented, will represent a significant improvement on the current situation, and that it is considered by Mr Pene unlikely that offensive and objectionable odours will continue to be experienced beyond the boundary of the site.

15. I note Mr Pene's caution that adequate extraction and treatment capacity need to be secured by clear conditions of consent. I also consider that conditions of consent should continue to require that there be no odour beyond the boundary and that any increases in volume of compost production do not occur until all mitigation measures are in place and have been demonstrated to be operating effectively.
16. At this stage I have not seen revised proposed conditions of consent, but will be happy to comment on them at the hearing.



Philip Brown