

PALMERSTON NORTH CITY COUNCIL
MANAWATU-WHANGANUI REGIONAL COUNCIL

RESOURCE CONSENT APPLICATION FOR THE EXPANSION OF AN EXISTING QUARRY AT
167-257 KENDALLS LINE, PALMERSTON NORTH
MINUTE 2 OF INDEPENDENT HEARING COMMISSIONER

Introduction

1. This Minute is being sent to you because you are either the Applicant, a submitter or a Council reporting officer to the above application.
2. The hearing of submissions on this application was held on 22 June 2023. It was adjourned at 5pm that day to enable some further engagement between certain experts and to allow the Applicant to, upon receipt of the output of that engagement, furnish its written reply statement.
3. The Purpose of this Minute is three-fold:
 - a. Firstly, to confirm the verbal directions given at the hearing regarding the nature of engagement required between experts, and the timeframes for that and the Applicant's right of reply;
 - b. To record the details of a visit to submitters' properties that I have since undertaken;
 - c. To outline some additional information I require from both the Applicant and the Council.
4. Upon receipt of the above information I will formally close the hearing. My decision will be issued 15 working days from that point.

Additional Conferencing

5. The focus of the hearing was on the effects associated with a significant increase in traffic movements being sought as part of this application and, in particular, the effects associated with dust nuisance and noise and vibration from an average of 200 heavy vehicle movements per day with a maximum of 250 such movements per day (at a maximum rate of 40 per hour).
6. There was full agreement between the transportation experts about the ability of the roading network to accommodate that level of activity. Those experts (Mr Phillips and Ms Fraser) also agreed on the need for and type of works required to improve safety at the intersection of Kendalls Line and SH 57. That solution, which includes road widening on the

southern side of Kendalls Line, road marking and vegetation trimming, was also endorsed by Waka Kotahi. No further information is required on this matter.

7. There was however some residual areas of disagreement between the experts on certain conditions relating to noise and dust from heavy vehicle movements on Kendalls Line. For example:
 - a. In respect to noise matters, acoustic experts Mr Farren and Mr Lloyd were not in agreement over the trigger for the offering of noise mitigation (in the form of an acoustic boundary fence) to certain property owners. Mr Farren favoured the exceedance of a noise standard (55 dBA) whereas Mr Lloyd preferred a flat setback of 50 metres from the centre line of the road as a basis for identifying qualifying properties. There was also some disagreement about the use of the notional boundary, the duration of noise monitoring and some other miscellaneous matters.
 - b. In respect to dust matters, there was a considerable narrowing of matters during the course of the hearing between air quality experts Mr Keer-Keer and Mr Curtis (including the addition of a requirement for a wheel wash and road cleaning measures between the weigh station and the beginning of Kendalls line legal road). However there was still some disagreement over the location of dust monitoring stations and the duration of dust monitoring.
8. The above examples are not exhaustive but are provided to simply record the nature of the additional conferencing required between the four technical experts and the planners.
9. The instructions at the hearing were for Joint Witnesses Statements (including a consolidated set of conditions) to be filed by **Friday 30 June**. This remains the requirement unless I receive a request for additional time. The Applicant's reply statement is due on **7 July 2023**.

Site Visits

10. I visited the following properties on the morning of Friday 23 June:
 - a. 39 Kendalls Line : [REDACTED]
 - b. 11 Kendalls Line: [REDACTED]
 - c. 15 Kendalls Line: [REDACTED]
11. Ms Emma Hilderink-Johnson and Ms Natasha Adsett for the Applicant and Council accompanied me respectively.
12. The purpose of the visit was solely for me to familiarise myself with the submitters' properties in relation to Kendalls Line. Apart from some discussion about the potential location of a fence to mitigate noise (as proffered by the Applicant for certain properties) there was no discussion of the application of the issues canvassed at the hearing. I appreciate the attendance of Ms Hilderink-Johnson and Ms Adsett and the willingness of the submitters to allow me onto and into their properties.

Information required from Council and Applicant

13. During the course of the hearing, I made several requests for clarification and additional information from the Applicant; notably to Mr Bartlett (legal counsel) and the corporate witnesses; namely, Shane Higgins (Director, Hirock Ltd) and Josua Grobler (General Manager – Aggregates, Hirock Ltd). Many of these queries were responded to verbally at the hearing (e.g. the annual tonnage extracted over the last 3 years) but the Applicant agreed to capture these responses in written form as part of their reply statement. This also included alterations and amendments to the draft conditions (e.g. a specific condition on provision of a wheel wash).

14. In addition to this and in relation to matters I raised at both the commencement and conclusion of the hearing, there remained a significant issue to be addressed by the Applicant. That relates to the increase in activity being proposed by the Applicant and in particular:
 - a. An increase from 105,000 to 360,000 tonnes of aggregates extracted per year; and
 - b. An increase in heavy vehicle movements from a consented total of 54 movements per day to an average of 200 movements per day with a maximum of 250 per day (at a maximum rate of 40 per hour).

15. The case for the increased extraction was made by Mr Higgins at the hearing; essentially the ability to continue extraction at the site relies on a horizontal widening of the extraction zone. Without that extension the life of the quarry is severely limited. That matter was not in dispute nor are the minor nature of effects of quarrying at the boundary of the quarry (which I must say is not always the case with quarry applications).

16. However, the issue raised by submitters is that the outcome of the increased extraction is the potential for significantly increased traffic volumes as outlined above including a peak potential of one heavy vehicle traveling up or down Kendalls Line every 1½ minutes. Notwithstanding the mitigation proposed by the Applicant, it is the dust and particularly the noise/vibration effects that all submitters identified as their principal concern. Moreover it is the frequency of these effects (i.e. almost continuous for a 10 hour period for at least 5 days a week for a minimum of 10 years) that submitters were most vocal about.

17. What wasn't clear to me or, I believe, submitters at the hearing is the correlation between the proposed increased extraction rates and the requested traffic volumes. In particular, it was unclear how the total average and hourly traffic numbers had been derived. One submitter, Mr Bekker, shared his arithmetic at the hearing whereby using a (revised) 21 tonne heavy vehicle/trailer unit the number of daily movements averaged over a 5 day period would equate to a maximum 130 movements per day (65 in and 65 out). This is 120

heavy vehicle movements a day less than the maximum requested i.e. an average of 13 per hour compared to 25 per hour (or 40 per hour for the maximum hourly rate requested).

18. I acknowledge that the RMA is not a “no effects” statute but all persons operating under the RMA do have an explicit duty to avoid, remedy or mitigate effects to the greatest extent possible. To this end, I signal that I am concerned at the frequency of noise/vibration effects (and to a lesser extent dust effects) associated with the requested volumes of heavy vehicle movements. The projected increase in traffic movements does raise a substantive question about the appropriateness of the actual and potential effects associated with the proposal. This concern is compounded in my view by the absence of any robust justification for the requested traffic volumes.
19. On the above basis, the Applicant now has the opportunity to respond to the above issue in its reply statement. As a minimum I require an outline of the how the projected and requested traffic movements have been derived and how they relate to the extraction volumes. More substantively however, I would strongly encourage the Applicant to give serious consideration to setting an average daily and maximum hourly volume of traffic movements that enables the quarry to be efficiently operated while robustly and comprehensively addressing the frequency and potential severity of noise and vibration effects on all dwellings occupied along Kendalls Line.
20. Given the importance of this information, if the Applicant requires time beyond the 7 July to file its reply, I would be amenable to that upon application by Mr Bartlett.
21. The above aside, I would appreciate Ms Adsett sourcing from the PNCC records a copy of the authorisations for the lifestyle allotments along Kendalls Line. Any commentary to accompany that documentation to assist its understanding would be welcome.

Next Steps

22. On the above basis the JWS from the Council and Applicant experts along with the Council information covered in paragraph 21 above is required on 30 June. The applicant reply statement, including the information set out in paragraph 19 above is required on 7 July. Applications for extension to these dates will be considered upon request and should be sent to the PNCC Hearing administrator in the first instance.
23. The PNCC hearing administrator is Susana Figlioli and can be reached at Susana.figlioli@pncc.govt.nz or phone: 06 356 8199.

DATED this 26th day of June 2023

A handwritten signature in blue ink, appearing to read "DJ McMahon", written over a horizontal line.

DJ McMahon

Independent Commissioner