

SELWYN DISTRICT COUNCIL

IN THE MATTER Resource Management Act 1991

AND

IN THE MATTER of Private Plan Change 43

REPORT ON SUBMISSIONS RELATING TO PLAN CHANGE 43

By Synlait Milk Ltd for a private plan change to introduce a Dairy Processing Management Area (“DPMA”) within the Rural Outer Plains zone, at Heslerton Road, Dunsandel.

To: Hearing Commissioner – J Milligan

From: Consultant Planner – Melanie Foote

Hearing Date: 3rd and 4th December 2014

This report analyses the submissions received on Plan Change 43 (PC43) to the Selwyn District Plan (“the Plan”) and has been prepared under section 42A of the RMA. The purpose of the report is to assist the Hearing commissioner in evaluating and deciding on submissions made on PC43 and to assist submitters in understanding how their submissions affects the planning process. The report includes recommendations to accept or reject points made in submissions and to make amendments to the Plan. These recommendations are the opinions of the Reporting Officer(s) only. The Hearing commissioner will decide on each submission after hearing and considering all relevant submissions, the Officer’s Report(s) and the Council’s functions and duties under the RMA.

ATTACHMENTS

Attachment A	Summary of submissions
Attachment B	Officers recommendations on submissions
Attachment C	Applicants legal opinion
Attachment D	Legal opinion – Paul Rogers, Partner, Adderley Head
Attachment E	Landscape and visual – Jeremy Head, Consultant Landscape Architect
Attachment F	Transport – Nick Fuller, Consultant Traffic Engineer, Novogroup
Attachment G	Noise – Jeremy Trevanathan, Consultant Acoustic Engineer, Acoustic Engineering Services
Attachment H	Peer review economic analysis, Geoff Butcher
Attachment I	Peer review HSNO and lighting, Russell Malthus, Novogroup Ltd
Attachment J	Officers proposed amendments to Appendix 26

INTRODUCTION

Qualifications and Experience

1. My name is Melanie Foote. I am employed by a planning and resource management consulting firm Resource Management Group as a consultant planner. I have over 12 years' experience working as a planner for local authorities and consultancies in Queenstown, United Kingdom and Christchurch. I hold the qualifications of a Bachelor of Resource Studies and a Post Graduate Diploma in Resource Studies from Lincoln University. I am a full member of the New Zealand Planning Institute.

Evidence Scope

2. I have been asked by Selwyn District Council to assess Private Plan Change 43, the relief sought by submitters, and to prepare a report making recommendations to the Hearing Commissioner. In this regard it is important to emphasise that the Commissioner is in no way bound by my recommendations and will be forming his own view on the merit of the plan change and the changes sought by submitters having considered all the evidence before him.
3. In preparing this report I have:
 - (a) Visited the site and surrounding area.
 - (b) Read and assessed all the submissions received on the plan change request.
 - (c) Reviewed the notified plan change request.
 - (d) Considered the Statutory framework and other relevant planning documents, including the Greater Christchurch Land Use Recovery Plan ("LURP") and Recovery Strategy.
 - (e) Relied where necessary on the evidence and peer reviewed provided by other experts on this plan change.

BACKGROUND

Reasons for the application

4. The existing Synlait dairy plant operates as a rural based industrial activity as defined in the Selwyn District Plan (Rural Section). While the dairy plant is a legitimate activity that could be anticipated within the Rural Outer Plains, the applicants cite there is limited policy support and/or guidance to enable further development of the site without further resource consents. The applicants therefore, rather than relying on an ad hoc consenting process for the future development of the site, propose Plan Change 43 which seeks to define and outline the maximum development potential of the site.
5. The applicants note that to date the use and on-going development of the site has relied upon a sequence of resource consents with eighteen consents being lodged since 2006. Reliance on resource consents results in uncertainty when planning future use and expansion of the facility. As such this plan change process is preferred over the resource consent process for the future development of the site.

Current Operations on Site

6. Synlait currently operates two milk dryers capable of processing a total of 2,800,000 litres of milk per day. Further a small special milk products dryer is also operated. Milk supply to the dairy plant is seasonal with raw milk processing peaking during October. Milk is transported directly from farms in the region by contracted milk tankers.
7. The dairy processing activities on site comprises a complex of buildings and facilities including boilers, milk reception and wash down areas, parking, services, roading, dry store service both inward and outwards goods. Synlait's administration is located on site as well as staff employed on site in engineering, manufacturing and warehousing. Administration staff generally work from Monday to Friday. All other staff normally cover seven days. Based on the 2012 processing season the applicants advise 135 staff work at the plant on day shift with approximately 30 staff on night shift.

Site and Surrounding Area

8. The Dairy Processing Management Area (DPMA) site is visually dominated by the existing milk processing plant. This area comprises a cluster of large scale buildings occupying approximately 20% of the DPMA. The existing buildings are of variable height and scale with taller dryer towers rising above structures. There is an existing waste water treatment plant and stormwater ponds adjacent to the southern site boundary and an office block with adjoining parking areas located to the west of the plant.
9. Existing landscaping and an earth bund are located along SH 1 which was planted as part of the construction of the initial dry store. The existing planted bund to the southwest of the access road was constructed as part of the original development for both acoustic and amenity purposes. Other landscaping comprises of rows of oak and pine trees established mainly along the northern and north-eastern boundaries adjacent to the plant, along with an existing Hawthorn hedge that grows along the SH1/Railway boundary between Heslerton Road and Sheats Road.
10. The land to the north east is dominated by open pasture and used for dairy farming.
11. The wider surrounding environment forms part of the Canterbury Plains which are characterised by flat land dissected by braided rivers. The flat topography is back dropped by the foothills of the Southern Alps which creates a 'Big sky' identity. Further, the Canterbury Plains are characterised by crisscrossing roads, railway lines, irrigators, shelterbelts and geometric field patterns. Smaller settlements are located along state highways with Dunsandel being the closest settlement located just north of the Synlait site.
12. The local environment is characterised by open pasture with shelterbelts, roads, hedges, fences, pivot irrigators and farm and ancillary buildings. The local environment is one that is typical of the modified wider plains environment.

Existing Consented Development

13. The applicant holds consents for expansion of the dairy plant which are yet to be given effect to. These allow for the following:
 - A third dryer and associated plant;

- A canning and blending plant;
- Manufacture of butter;
- Establishment of a cold store;
- A truck depot;
- A new administration building and laboratory;
- Lactoferrin plant; and
- Third dry store and enclosed loading areas (recently completed).

APPLICATION

14. PC43 is outlined in detail within the application. In summary the proposed plan change facilitates the rezoning of the site to a new DPMA within the Rural Outer Plains Zone of the Selwyn District Plan. The location and boundaries of the DPMA are detailed in the application. The DPMA comprises the area of land immediately surrounding the existing dairy plant.
15. The plan change introduces a new policy to describe the purpose of the DPMA and a new Appendix 26 containing a specific set of rules for activities and buildings related to dairy processing.
16. The DPMA will form an overlay within the Rural Outer Plains zone of the District Plan so will not replace the underlying rural zone. Therefore, should dairying processing activities not achieve full site development, rural activities can continue as provided by the rural zoning of the site.

PROCEDURAL MATTERS

17. The application was lodged on the 16th May 2014. After lodgement the application was reviewed in terms of adequacy of the information provided, with peer review feedback received on noise, traffic, landscape, economic and environmental health matters. Amendments were made to the application in response to the peer reviews, with the application then accepted by Council, then publically notified.

18. The application was publicly notified on the 5th of July 2014 with submissions closing on the 1st of August. Further submissions closed on 12th September.
19. A total of 6 submissions were received. One provided conditional support, one supports in part, one in support and three submissions in opposition. No further submissions were received on PC43.
20. **Attachment A** provides a summary of the submissions.
21. **Attachment B** outlines my recommendations on submissions.

Scope of Submissions

22. Section 96 of the RMA – Making a submission, section 308A – identification of trade competitors and surrogates and section 308B limit on making submissions requires a submission to:
 - (1) Demonstrate how the proposal directly affects a landowner
 - (2) Be in response to an actual environmental effect
 - (3) Not be promulgated on the grounds that the proposal may undermine the interests of trade competitors.

Trade Competition Issue

23. The applicant wrote to Council on the 19th of August advising that, in their opinion, the submission received from Izone is made by a trade competitor as defined by the RMA. Further to this letter the applicant forwarded a legal opinion dated 22 October on this matter, **Attachment C**. In response to this Council requested the legal opinion be reviewed by Paul Rogers from Adderley Head. This legal opinion is located in **Attachment D** to this report. This response was received on 4th November and is contrary to the view held by the applicant's legal representatives. To summarise Mr Rogers considers that trade competition does not include one property owner/manager competing with another to try and achieve the highest and best use of their land. In this instance we have submissions from a land management company that is responsible for development of an industrial business park, opposing a plan

change by the owner and occupier of land that is to be used for expanded dairy processing and related activities. I agree with Mr Rogers that the current state of the law is that landowners competing with each other for the best use of their land are not trade competitors. On consideration of the facts and both legal opinions I agree with the legal opinion from Mr Rogers therefore the submission from Hughes Development on behalf of Izone is in order for consideration by Council.

STATUTORY FRAMEWORK

Statutory principals

24. The general approach for the consideration of changes to district plans was summarised in the Environment Court's decision in Long Bay¹, the relevant components of which are set out in the following paragraphs.
25. The matters that must be considered in preparing a change to the Plan are set out in section 74 of the RMA. Amongst other things, section 74 requires the local authority to:
 - Comply with its functions under section 31
 - Consider alternatives, benefits and costs under section 32
 - Ensure the necessary matters are stated in the contents of the district plan under section 75
 - Have regard to the overall purpose and principals set out in Part II, including the Matters of National Importance (s6), the Other Matters (s7) that require particular regard to be had in achieving the purpose, and the Treaty of Waitangi (s8).
26. It is noted that in a general sense, the purpose of the 'Act' is already reflected in the current District Plan objectives and policies as they have already been through the above statutory tests and are now unchallenged. PC43 seek to add a new policy, further explanations and inserts new text to the explanations, reasons and methods and amendments to the general rules, adds new rules and an outline development plan (ODP).

¹ Long Bay – Okura Great Park Society Inc v North Shore City Council A078/08

27. When preparing a plan or considering a plan change the Council:
- Must give effect to the operative Canterbury Regional Policy Statement (s75(3)(c))
 - Shall have regard to any proposed changes to the Canterbury Regional Policy Statement (s74(2)(a)(i)); and
 - Any management plan and strategies prepared under other Acts (s74(2)(b)(i))
 - Must not take into account trade competition (s74(3))
 - Must take account of the Mahaanui: Iwi Management Plan 2013 (s74(2A))
 - Shall have regard to the extent to which the plan is consistent with the plans of adjacent territorial authorities (s74(2)(c))
28. Consideration of the appropriateness of the DPMA and the associated District Plan amendments must therefore give effect to the operative Canterbury Regional Policy Statement ('CRPS') and be consistent with the Land Use Recovery Plan ('LURP') and the Recovery Strategy for Greater Christchurch² (Recovery Strategy)
29. There are not considered to be any relevant provisions in the District Plans of neighbouring territorial authorities that are affected by PC43. Matters of cross-boundary interest are limited to managing the co-ordinated urban growth of Greater Christchurch through the CPRS and the statutory directions contained in the LURP.
30. PC43 seeks to make additions to the settled objectives and policies of the District Plan to accommodate the proposed DPMA. Under s32 of the RMA, the Council is required to consider whether the proposed additions to the objectives and policies are the most appropriate way to achieve the purpose of the Act. In addition, it must evaluate whether the proposed changes to the other provisions of the District Plan are the most appropriate way to achieve the purpose of the plan change and the existing objectives and policies of the District Plan, taking into account the efficiency, effectiveness and consideration of alternatives.
31. The process for making a plan change request and how this is to be processed is set out in the 1st Schedule of the RMA. PC43 has reached a point where the request has been accepted for

² S15(2) – Canterbury Earthquake Recovery Act 2011

notification and the submissions and further submissions have closed. A hearing is now required (Clause 8B) and a decision can be made on the plan change and the associated submissions (Clause 10).

STATUTORY ANALYSIS

32. In considering the contents of District Plans, Councils must have regard to any proposed Regional Policy Statement (s74(2)(a)) and any management plan or strategy prepared under other Acts, including the Local Government Act (s74(2)(b)(i)), and give effect to any operative Regional Policy Statement (s75(3)(c)).

Recovery Strategy for Greater Christchurch

33. The Canterbury Earthquake Recovery Authority has prepared a Recovery Strategy for Greater Christchurch, that sets out the overarching long-term vision and objectives for recovery, including the identification of the priorities and responses. The Recovery Strategy was approved on the 31st May 2012 and is a high level plan containing strategic responses that CERA, assisted by a number of agencies and organisations, will undertake to guide the recovery efforts.
34. The following five areas have been identified to assist in developing the Recovery Strategy:
- Community wellbeing
 - Culture and heritage
 - Built environment
 - Economy
 - Natural environment
35. Given the high level strategic nature of the Recovery Strategy, there are no matters arising from the proposed DPMA and the associated amendments to the District Plan that would be inconsistent with the Recovery Strategy

Land use Recovery Plan 'LURP' and Chapter 6 to the Canterbury Regional Policy Statement 'CPRS'

36. The LURP was prepared under the Canterbury Earthquake Recovery Act 2011 to provide for the recovery process in the Greater Christchurch sub- region. The LURP provides the framework to rebuild existing communities, develop new communities, meet land use needs for commercial and industrial developments, and to take into account natural hazards and environmental constraints that may affect the rebuild and recovery.
37. The LURP identifies 50 critical Actions to be initiated in the short to medium term to coordinate and advance decision making about land use, as well as identifying which agency is responsible for delivering those actions within specified timeframes.
38. With regard to the Selwyn District, the LURP directs business activities to locate in existing business zones or those identified as priority areas in the RPS. This is a reflection of concerns that the dispersal of business activities could undermine the recovery of Christchurch City as a thriving business hub.
39. The PC43 site falls just outside the geographic area of metropolitan Greater Christchurch that is the focus of the LURP. However, there remains a requirement under the Canterbury Earthquake Recovery Act 2011 to ensure that all decisions made under the RMA are not inconsistent with the LURP. It is therefore important to consider any effects of PC43 on the ability to achieve the outcomes that are provided for in the LURP.
40. The LURP does provide for rural activities. The definition of rural activities includes 'businesses that support rural land use activities'. The existing dairy processing plant supports the surrounding dairy farming operations by providing a processing plant in close proximity and key transport routes.
41. The application clearly states that the proposed DPMA is not intended to provide for a general industrial zone and is specific to the established dairy plant. Amendments have been proposed as part of the plan change provisions, see Attachment J, to ensure that activities permitted under the plan change are appropriately and clearly limited to dairy processing activities only to ensure consistency with the LURP. Provided the definition of ancillary activities is better defined to ensure this I am comfortable that the proposal is not contrary to the LURP.

CANTERBURY REGIONAL POLICY STATEMENT (RPS)

42. The RPS provides an overview of the Resource Management issues facing the Canterbury Region, and the objectives, policies and methods to achieve integrated management of the natural and physical resources of the region.
43. To summarise, the relevant chapters of the RPS are;
- Chapter 5 Land Use and Infrastructure
 - Chapter 7 Fresh Water
 - Chapter 11 Natural Hazards
 - Chapter 12 Air
 - Chapter 16 Energy
 - Chapter 18 Hazardous Substances
44. The applicant has undertaken a detailed assessment of the above provisions within Appendix 3 of the plan change application. I concur with this assessment so will not repeat the assessment.
45. Overall I consider that the plan change would be consistent with the RPS.

Canterbury Natural Resources Regional Plan ('nrrp') and the Proposed Land and Water Regional Plan ('plwrp').

46. The purpose of the pLWRP is to identify the resource management outcomes for managing land and water in the Canterbury region with the pLWRP largely superseding the NRRP's role in managing water quality and quantity.
47. The feasibility of PC43 DPMA area to be serviced in terms of stormwater has been considered by Pattle Delamore and Partners (PDP). While this is not a full assessment of effects, it is satisfactory in terms of understanding the ability of the site to accommodate future development with respect to effects on groundwater. Overall PDP conclude that there is

sufficient land area within the proposed DPMA to effectively manage stormwater. This conclusion assumes that all runoff is required to be treated for the critical duration (24 hours) 50 year rainfall event.

48. Synlait holds a number of existing resource consents including discharge of wastewater and for earthworks. Over time the applicants propose to vary these or apply for new consents as required. Given the long time frames for ultimate full development of the proposed DPMA this approach is considered suitable, rather than the alternative of applying for all consents upfront.
49. On this basis the proposed DPMA is considered to be consistent with the relevant Regional Plans.

Mahaanui Iwi Management Plan 2013 (IMP)

50. Councils must take into account any relevant planning document recognised by an Iwi authority and lodged with Council (s74(2A)(a)). The relevant document for the Selwyn District is the Mahaanui Iwi Management Plan 2013. This document sets out the aspirations of local Iwi and in particular seeks the maintenance and enhancement of water quality and quantity, the promotion of indigenous biodiversity, mahinga kai species, and the protection of sites with identified waahi tapu or waahi taonga value.
51. The application includes a Cultural impact Assessment (CIA) which notes that a full assessment of the plan change request against the IMP policies is not required within the report. Instead the comprehensive review of relevant policies undertaken as part of Synlait's Stage 4 expansion has been referenced. The findings of the CIA indicate that the Te Taumutu Runanga is supportive of the creation of the specific DPMA as this will provide certainty as to what future development can occur on site, under what conditions, and therefore offers a consistent approach to planning and decision making.
52. However, the CIA also indicated some reservations about the risk to cultural values and the ability to manage effects in a comprehensive and integrated manner. Seven recommendations were listed to address the Runanga issues and provide opportunity to align the PC with the IMP. These are also repeated in the submission lodged by MKT on behalf of the Runanga. To summarise, these issues relate to the following matters:

- Earthworks- The Runanga are not comfortable for earthworks exceeding 5000m³ to be a permitted activity. Volumes exceeding this are better dealt with via the normal consenting process.
- Landscaping – A landscape plan was not available at the time of preparing the CIA and therefore the Runanga could not provide comment. The Runanga has clear policy direction around landscape planting to provide for cultural issues and appropriate landscape planting.
- Lighting - the Runanga support the use of light suppression or limitation measures as a means to avoid light pollution and the impact of development on cultural amenity values and landscape in general.
- Stormwater – Stormwater management is an issue of significance for the Runanga. The Runanga see the plan change as an opportunity to provide a comprehensive approach to stormwater management, including improving existing stormwater infrastructure.
- Managing discharges to air, land and water: The Runanga consider it difficult to assess the views on reasonable and optimal future development without considering both district and regional planning matters.
- Establishment of additional DPMA in the catchment: Concerned about the potential for other new dairy processing plants in the Waihora catchment.
- Opportunities to incorporate low impact design and sustainability options into the ODP and rules: the new rules do little to incorporate sustainability and low impact design principals. The plan change represents a good opportunity to incorporate low impact building design and sustainability measures so that the impact of the plant on the environment is reduced.

53. The applicant has made some amendments to the plan change but I understand they have been liaising with the Runanga on the remaining matters. The outcomes of any further engagement with the Runanga have not been reported back to Council yet and it is anticipated the applicant will provide an update on these matters at the hearing.

54. A submission was received from MKT of behalf of Te Taumutu Runanga and draws on the matters outlined in the CIA and the issues summarised above. This submission is discussed in more detail further in this report.
55. Overall while there are no identified sites of significance in the proposed DPMA, the CIA describes that Ngai Tahu travelled through the Selwyn District and have responsibility to the kaitiaki to maintain and protect the land, water and air for current and future generations. Further the importance to Te Waihora as tribal taonga and its location within the catchment is acknowledged.
56. To conclude there are some areas whereby the applicants need to come to agreement with the Runanga however I consider the plan change would be generally consistent with the IMP.

Canterbury Regional Land Transport Strategy 2012-2042 (RLTS)

57. The Canterbury Regional Land Transport Strategy (RLTS) outlines the strategic direction for land transport within the Canterbury Region for the next 30 year period. The purpose of the RLTS is to contribute towards the governments overall vision for achieving an integrated, safe, responsive, and sustainable land transport system. The RLTS identifies the regions transport needs, the roles of land transport modes, along with planning engineering, education, encouragement and enforcement methods that will be used to achieve the objectives.
58. I agree with the applicant that the provisions of the DPMA are aligned with the RLTS as the plan change specifically provides for future changes to access, potential upgrading of the intersection of Old South Road and State Highway 1 and the increase in traffic movements.

ASSESSMENT OF EFFECTS

59. This section provides an assessment of the submission points, summary of expert evidence commissioned to inform this report and considerations of actual and potential effects. The assessment of effects have been grouped into the following topic areas and assessed accordingly:
- Landscape and Visual Amenity
 - Traffic

- Noise
- Servicing
- Economic
- Cultural
- HSNO and Lighting
- Positive Effects
- Proposed DPMA and Use of Environmental Management Plans

Landscape and Visual Amenity Effects

60. Potential effects on visual and landscape values have been assessed in the application, with the applicants Visual and Landscape Assessment (VAL) peer reviewed by Mr Jeremy Head, (**Attachment E**) an experienced landscape architect who has been involved with peer reviewing the previous resource consent applications by Synlait. Mr Head largely agrees with the applicant's assessment so I will focus on where there are inconsistencies in the VLA/ODP's that require clarification, and the recommendations made by Mr Head.
61. With regard to submissions only one was received on landscape matters from MKT on behalf of Te Taumutu Runanga and seeks the following relief:
- A commitment to re-instate indigenous biodiversity, including purpose built screening, use of native species that were originally found in this area and planting as part of stormwater management.
 - Object to use of colour Titania as a permitted activity as it is highly reflective in the rural environment.
62. With regard to the native planting I concur with Mr Head that the applicant has included a fair and reasonable amount of native planting as part of the proposal (I note native planting would cover an area of 1.3 hectares). This will introduce areas of native biodiversity to an area where none exists currently.

63. Mr Head from his involvement in previous Synlait resource consent applications, has noted that the colour Titania, as previously approved, provides adequate reflectivity values for controlling internal heat levels within the dry stores. Further darker colours with less reflectivity give rise to practical difficulties in managing internal heat levels. I concur with Mr Head that on this basis this colour is acceptable on landscape grounds as it comprises one of Synlait's current plant colours already present on site. To alter the colour would potentially reduce the cohesiveness of the site. Secondly the proposed boundary planting will reduce any adverse visual effects over the longer term as plants establish and buildings eventually become screened from view.
64. Mr Head is largely satisfied with the proposed wording of the various objectives, policies and rules and that they will provide appropriate mechanisms to manage any adverse effects on landscape character and rural amenity values, except those relating to signage. Mr Head has recommended some changes to the wording as outlined in his report with a double underline to ensure signage outside of the Height Control zone is low level and directional in purpose only. I concur with Mr Head's proposed amendments although have made some further amendments to the wording to simplify. These will be outlined further in this report within **Attachment J** which makes recommendations on amendments to the rules package.
65. The applicants VLA proposes a significant change compared to earlier resource consents whereby any mitigation planting will be implemented *prior* to the completion of construction of any building that increases the capacity for storage or processing. Mr Head notes this approach would ensure that any mitigation planting would have time to establish before works are completed. Mr Head notes that this strategy is introduced early in the "Background" of the VLA where it states *"Our input into the proposed plan change seeks to move away from the current 'develop and plant' approach to landscaping to one that provides a comprehensive landscape overview for the full development of the DPMA"*. This is also confirmed by Rule 1 *"Landscape Staging on the ODP – Landscape"*. However Mr Head notes that in the descriptions of what the various landscape areas A to E entails in the VLA, Mr Robertson states that: *"The implementation of this planting will be immediate (i.e. first planting season) following construction of any building that increases the capacity..."* It is noted that this is no different to what has been done in the past and contradicts the earlier assertion that landscape works will be under taken prior to commencement of construction works. I consider it important that landscape mitigation works are undertaken prior to construction works

commencing that increase the capacity for processing or storage. I understand issues have arisen concerning implementation of landscaping under previous consents.

66. Mr Head also notes in his report an inconsistency with regard to planting between the ODP's with regard to the line of existing Oaks that are visible in Mr Robertson photo 7 in the VLA. One ODP- Landscape shows these as being retained whereas the other ODP states that development within the Height control Area will require existing vegetation removal. This needs to be clarified by the applicant. I concur with Mr Head that these trees are relied upon for visual mitigation and as large species which over time will provide a useful buffer to the existing dairy plant where there is a gap in the perimeter planting due to the substation. Mr Head has communicated with Mr Robertson while preparing this report and confirms that the "existing areas to be retained" as shown on the ODP – Landscape, including that within the Height Control Area will indeed be retained. If they are to be removed or relocated this needs to be indicated on the plan.
67. Mr Head notes that the various planting areas shown on the ODP from A to G are described in detail and Mr Head considers these to be suitable and overtime would fully screen or buffer key views of the plant. However there are no plant centres specified and this could have a significant impact on development. The plans should list the minimum plant centres and ensure the minimums stated are sufficient to ensure successful establishment of landscaping.
68. Sheet two of the VLA appendices contains a plant list comprising a list of trees shrubs and groundcover species broken down into shelter belt, primary and secondary successional (native) species. Mr Head notes some of these are asterisked as "suitable species for the Synlait DPMA" which infers the majority of plants are not suitable. It would be helpful if the applicants could provide a shorter list which just comprises suitable plants/trees only.
69. Mr Head goes on to question the successional planting method as in his opinion all of the asterisked plants could be planted at the same time other than the matai which is intolerant of strong wind. The applicant proposed 1.2 ha of native planting around the perimeter of the site and the applicants propose a two year delay in implementing this to stagger the planting cost. However Mr Head recommends that indigenous planting be implemented in one single phase rather than successional stages as after two years the proposed shelter planting would have grown enough to provide sufficient protection to the young native plants.

70. The VLA describes the planting along Heslerton Road and that any additional planting will be implemented between three and five years after construction of any building in Stage 1 that increases the capacity for processing or storage. The rationale behind this is the existing pine shelterbelt has another 15 years of life left in it before it would need to be removed. Mr Head considers that this shelterbelt provides adequate screening however I agree with Mr Head that the successional Pinus planting along Heslerton Road be implemented at the same time as Areas A to F i.e. at the onset of construction. The reasons for this recommendation is that the planting would need to be very tall before it provided any meaningful screening therefore it would be advantageous to have any replacement screening established as soon as possible to give it maximum time to grow before the mature shelterbelt is removed.
71. Mr Head considers that the rail siding will have implication on the views into the DPMA from points along SH1 which is where the key viewing audience is located. The two ODP's show the rail siding at right angles to the main truck line. In order to understand the effects of the rail entries more detail is required in the form of 3D sketches similar to those provided in Appendix 4 of the VLA. Mr Head considers such details ought to include offset shelterbelts located to block or buffer any angled views into the site from SH1.
72. With regard to the effects on rural character Mr Head states that the plant could potentially double in its current size over the next 30 years which would result in built form predominating over the generally natural character of rural elements in the area in the short to medium term before landscape mitigation has effect. I agree with Mr Head that this will result in adverse effects on the wider rural landscape character however such adverse effects will be adequately mitigated and remedied.
73. Overall, subject to addressing the points raised above, I consider that any effects associated with landscape and visual amenity will be appropriate and any adverse effects will be avoided, remedied or mitigated by the proposed ODP which provides a comprehensive plan for development of the site, defines maximum scale, and is complemented by rules which:
- Control building location, colour and height within the DPMA
 - Ensures the retention of open rural land surrounding the built development

- Implementation of 2.5ha planting framework for the DPMA. The proposed landscape strategy defines the location, composition and scale of shelterbelt and native planting required to mitigate potential effects over time.
74. Overall any effects associated with landscape and visual amenity can adequately be avoided and mitigated to an acceptable level.

TRAFFIC

75. The applicants have provided a transportation Assessment provided by Traffic Design Group and this has been peer reviewed by Mr Nick Fuller, a Senior Transport Engineer from Novogroup. A copy of Mr Fuller's assessment is provided in **Attachment F**.
76. Two submissions were received with regard to traffic matters. One from NZTA relating to signage and the other from Dairy Holdings Ltd regarding access and transport.
77. The NZTA submission expressed concern regarding proposed signage Rule 26.31. Discussions have taken place between the applicant and NZTA and the signage rule has been revised as outlined in **Attachment J** which details my proposed amendments to the Rules package.
78. Dairy Holdings Ltd has raised concerns regarding the potential adverse traffic effects at the SH1 /Old South Road intersection, and the potential adverse effects this may have with regard to diverting traffic onto the surrounding road network. Mr Fuller notes that this concern arises as a result of the traffic assessment included within the plan change application that indicates at this intersection acceptable delays to right turning traffic will occur until 2024, at which time growth of traffic on SH1 will further reduce the gaps available for trucks seeking to turn right. Mr Fuller notes that to mitigate this effect the applicant will undertake intersection upgrades as per proposed Rule 26.13 and this has been endorsed by NZTA.
79. The applicant has made some minor amendments to Rule 26.31 in agreement with NZTA that address potential safety and capacity issues at the SH1/Old South Road intersection. This rule amendment has been incorporated into **Attachment J**.
80. Overall I concur with Mr Fuller that the effects of the additional traffic generation will be acceptable on the surrounding road network and that there is suitable confidence in the rules

proposed that require intersection upgrades when required. Further the, proposed access and parking arrangements are required to comply with the District Plan standards.

NOISE

81. The applicants have provided a noise assessment undertaken by Marshall Day and this has been reviewed by Jeremy Trevathan of Acoustic Engineering Services (AES), **Attachment G**. A submission was received from P Hindin and Y Wan regarding the proposed noise control boundary. The submitters object to the proposed noise control boundary as their whole property falls within the noise control boundary thereby triggering compliance with Rule 3.13.6 which requires new dwellings to comply with a specified level of noise insulation and a ventilation system. The submitters believe that Synlait should be responsible for controlling noise and ensure that noise does not exceed the limits.
82. Mr Trevathan considers that the proposed noise limits will provide an adequate level of sleep and amenity protection for rural dwellings outside the proposed Noise Control Boundary (NCB) and would be expected to result in less than minor effects.
83. With regard to the NCB location and reverse sensitivity effects there are three areas of land contained within the proposed NCB which are not owned by Synlait and includes a section of farmland to the west across Heslerton Road, a triangular section bounded by Main South Road, Old South Road and Sharlands Road, and a section on the corner of Sharlands Road and Main South Road which contains an existing house. Mr Trevathan considers that the proposed controls are appropriate to control reverse sensitivity effects with regard to any potential dwellings within the NCB.
84. There is an existing dwelling located within the noise control boundary and Mr Trevathan notes that the applicants noise assessment briefly discusses the magnitude of effects on this dwelling stating that night time noise levels could be up to 50dB_LAeq given the proximity to State Highway 1. Overall the applicants consider any sleep disturbance to this dwelling would be minimal. While Mr Trevathan generally agrees with these comments, he notes that no information regarding the actual current noise levels at this dwelling or regarding the consistency of traffic noise during the night time period has been provided. Further Mr Trevathan states there are no comments provided by the applicants as to the magnitude of

effects. Mr Trevanthen concludes that noise effects could be minor or may be more than minor. More information is necessary, in this regard so the effects can be more accurately understood.

85. With regard to the threshold for acoustic assessment and the Noise Management Plan Mr Trevanthen notes that there is no framework within the proposed rules framework that will require on-going monitoring. I have proposed amendments to the rules package in this regard to require on-going monitoring, as outlined in **Attachment J**.
86. The applicants proposed a threshold of “...*additional processing or storage capacity*...” which will trigger the requirement for an acoustic assessment to be completed. However Mr Trevanthen has some concerns that the wording is quite specific and may exclude other noise sources on at the site such as transportation. I propose amendments to the wording of the rules in this regard.
87. Mr Trevanthen states that the applicants noise report implies that noise monitoring requirements will be addressed in the Noise Management Plan to allow flexibility and ‘responsive management’ however he considers that a formal requirement and timeframe for noise monitoring associated with each stage of the development should be adopted as part of the rules framework.
88. With regard to the noise contours the applicants have provided a model of the worst case scenario noise emissions expected from the site in order to confirm that compliance with noise limits can be met. Mr Trevanthen states that while the assessment primarily focuses on the proximity of the rail to existing state highway, and minimal expected movements to the site, he has some concern regarding noise levels predicted by the applicant’s noise consultant. In particular, Mr Trevanthen notes the assessment lists the entry and exit points of the siding being at opposite ends of the site and well removed from existing dwellings. Further Mr Trevanthen notes that the rail sidings as shown on the ODP appear unrealistic with the rail line travelling perpendicular to the bund and therefore requiring a very limited ‘hole’. In reality a large section of the bund may in fact need to be removed at each end. Mr Trevanthen has reviewed the operation of other rail sidings and noted gaps of anywhere between 30 and 100 metres plus at each end are normally required. Mr Trevanthen points out that if the junction points with the main railway line remain the same and a larger hole in the bund is required,

then the noisiest points for the shunting operations may actually end up closer to the existing dwelling at 6 Sharlands Rd. Clarification on these matters is required.

89. Mr Trevanathan is unclear how general noise from the operation has been considered. He notes that Figure 3 for example, shows the predicted future night time noise levels coming very close to the Noise Control Boundary towards the western end of the siding. If a larger hole is required in the bund than has been modelled, it is unclear how compliance would be affected. Clarification on this matter is required.
90. Mr Trevanathan points out that the applicants have provided an indication of likely construction processes or noise levels, however given the separating distances to the nearest dwellings he considers it appears realistic to expect that construction noise will comply with the proposed limits. Nevertheless, Mr Trevanathan recommends a noise rule be included which references the relevant NZ Standard (NZS 6803:1999). I have included this as an addition to the noise rules as track changed in **Attachment J**.
91. The Hindin/Wan submission comments that the noise emitter should be responsible for the control of noise for their site to ensure that “...*the noise does not exceed limits appropriate to the area at the boundary of the property owned by the noise generating company*”. However Mr Trevanathan notes that this is not the format of the District Plan rules framework, whereby instead noise limits apply at the notional boundary of any dwelling (i.e. 20 metres from any dwelling). As there is currently no dwelling on this submitter property, there are technically no noise limits applicable to the site.
92. The nature of the noise arising for the Synlait plant is different from what would be expected in a rural environment such that a different expectation may arise.
93. This submitter also notes that if the company were to manage their emissions to comply with the District Plan then there would be no reverse sensitivity. However Mr Trevanathan points out that that does not align with the general framework of the RMA which is not to eliminate adverse effects entirely but to instead minimise effects on the environment.
94. The Hindin/Wan submission proposes an alternative NCB envelope. Instead of following the road as a boundary the envelope would follow the predicted noise contour outlined by the applicants. This revised NCB would therefore not cover the entire submitter property, enabling development in the northern corner without the requirement for acoustic mitigation. Mr

Trevanathan considers this a pragmatic solution and it is recommended the NCB be amended accordingly.

95. Overall Mr Trevanathan considers the implementation of the NCB is appropriate for the site and will ensure any noise effects for dwellings outside the NCB would be less than minor. However with regard to the existing dwelling noise levels of up to 50dBA L_{Aeq} are predicted. However since limited objective data has been presented by the applicants regarding traffic contribution during the night time period the effects could be more than minor, however this cannot yet be confirmed.
96. With respect to the rail noise predictions Mr Trevanathan has some concerns in particular regarding the indicative path of the proposed rail siding and recommends further information be provided regarding the implications of the raised bund/rail layout, on noise levels expected at nearby dwellings, in order for a full conclusion to be made.
97. I understand the applicants have been in further consultation with affected residents and may have reached an agreement on noise matters which I understand is to be tabled by the applicants at the hearing. On this basis and provided the required information is presented at the hearing overall any noise effects are considered to be suitable.

SERVICING

98. Servicing of the site for stormwater, wastewater and water is established and is undertaken in accordance with existing resource consents held from Environment Canterbury. The Te Taumutu Runanga submission raises concerns about how discharges associated with the proposed DPMA can also be managed in an integrated and comprehensive manner. The Runanga are concerned that there needs to be a long term consideration and analysis of any potential future development of the plant and how discharges to land and air (and potentially water) will be managed. They consider it is particularly important given the proposed nitrogen limit set for Selwyn Waihora catchment.
99. Given the long term development of the proposed DPMA will occur over decades it is not practical to deal with servicing in an integrated manner at this stage of the process. I concur with the applicants that applying for new consents on an as needed basis represents the most

practical process given the long term nature of the development and likely advances in technology.

100. The applicants have however provided a stormwater feasibility report prepared by Pattle Delamore Partners which assesses the feasibility of future stormwater discharge to land within the DPMA. This report informs the understanding of the sites ability to accommodate future built form with regard to the ground water resource. In summary this report concludes that there is sufficient land within the DPMA to manage stormwater. This assumes all runoff is required to be treated for the critical duration (24 hours) 50 year rainfall event. The applicants note that some runoff may need to be diverted to the wastewater treatment facility or treated separately in accordance with current practice on site. Overall PDP consider there are no physical constraints that introduce uncertainty in the ability to effectively manage stormwater long term within the DPMA. I concur with these findings and consider that stormwater will be able to be adequately managed on site.

ECONOMIC

101. A submission was received from Hughes Development on behalf of Izone that raises concerns about the Economic Assessment undertaken by Harris Consulting for the applicant. Their main concern is that the economic analysis does not address any potential negative impacts of the proposed plan change on the already zoned areas, for the proposed related and ancillary activities promoted by the plan change.
102. Geoff Butcher has undertaken a peer review of the applicant's economic analysis, **Attachment H**. Overall Mr Butcher considers that aside from some textural and typographical errors in the report, that the report from Harris Consulting is a realistic and accurate assessment of the economic impacts of milk processing at the Synlait Plant (assuming the direct output of the plant is accurate). Mr Butcher also considers that the economic impacts of dairy farming are also realistic, apart from the level of household income, which in Mr Butcher's opinion is overstated. Mr Butcher notes that while dairy farming cannot expand unless milk processing expands, this does not imply that the expansion of Synlait is necessary or even sufficient to generate an expansion of dairy farming.
103. Mr Butcher notes that recent declines in the price for milk products are unlikely to change the estimates of economic impacts. This is because the principal effect of lower product prices is

likely to result in a reduction in the price paid to farmers for milk solids rather than a reduction in the returns on processing and the associated economic impacts.

104. The reference to ‘related by products’ and ‘ancillary activities’ promoted by the plan change requires a specific definition as part of the plan change as recommended in **Attachment J** of this report to ensure activities are limited to those associated with the processing and manufacture of milk products. It is important to ensure that activities on site explicitly only relate to and provides for the upgrade, expansion and diversification of the existing dairy processing activities only. The recommended changes to the Rule 26.1 are to avoid debate at the resource consent stage as to whether or not a particular activity is permitted or not.
105. Given all future development on site as part of the plan change will explicitly relate to the upgrade, diversification and expansion of existing activities on site I do not consider it necessary to consider the negative economic impacts on already zoned business areas as the site is located outside LURP boundaries and given it makes sense for all activities to be located in one central location on one site. I consider it would be inefficient to locate the activities on another business zoned site.

CULTURAL

106. The plan change includes a Cultural Impact Assessment prepared by Dyanna Jolly on behalf of Te Taumutu Runanga. MKT on behalf of Te Taumutu Runanga have submitted on the plan change and a summary of their submission points was outlined earlier in this report. Overall with respect to cultural matters any effects are considered appropriate.

HSNO AND LIGHTING

107. The proposed lighting provisions proposed as part of the plan change have been peer reviewed by Russell Malthus from Novogroup, **Attachment I**. The submission from MKT on behalf of Te Taumutu Runanga is concerned that Rule 26.21 is drafted so as to identify and enable light suppression techniques to minimise impact on landscape and views.
108. Mr Malthus discusses the Institute of Lighting Professionals lighting guide which recommends a limit of 1 lux into windows in rural zones after 2300 hours. Mr Malthus also references an excerpt from AS 4282 regarding a German survey which indicates that levels as low as 1 Lux

are desirable. Mr Malthus is satisfied that compliance with the current 3 lux standard at any property boundary would achieve 1 lux at any window, given the distances involved.

109. Mr Malthus notes that the proposed rule does not control directional glare which may be distracting to motorists and nearby residents. On this basis Mr Malthus recommends the proposed rule be amended to read as below. A track changed version is contained in **Attachment J.**

“ 26.21 Any lighting within the Dairy Processing Management Area shall be a permitted activity provided that:

(a) Light spill from any activity does not exceed 3 lux on any adjoining property or on any road reserve; and

(b) All exterior lighting is directed away from adjacent properties and roads; and...

110. With regard to the HSNO provisions Mr Malthus considers the baseline quantities from the existing resource consents are appropriate.
111. Overall any effects associated with lighting and HSNO matters are considered to be acceptable.

POSITIVE EFFECTS

112. The full development of the DPMA as proposed by the plan change has a number of positive effects. The plan change would result in increased employment opportunities with around 600 full time equivalent staff employed on site as part of the fully developed proposed DPMA. These positions would be primarily skilled positions such as manufacturing plant operators, management and administration.
113. The applicants are proposing a substantial area of planting as part of the plan change of which most is native species which will increase the biodiversity of the area and soften and screen the built form that exists already on site and that further built development on site.
114. The economic benefits of the development of the DPMA have been quantified in the applicant's economic analysis and overall will have significant economic benefits on both the regional and national economy.

PROPOSED DPMA RULES AND CHANGES TO POLICIES

115. The applicants have proposed amendments to existing policies contained in the District Plan and inserted a new policy to provide the basis for the rules controlling the use and development within the DPMA. Amendments have been proposed to ensure that the establishment of non- dairy processing related industrial activities are explicitly avoided. While such activities would be non-complying there is no policy support should such an application be lodged.
116. The applicants propose a set of rules that all activities within the DPMA shall comply with. It is noted the existing rules in Part C, 1 to 10 of the Rural Volume of the District Plan shall not apply to activities within the DPMA except where expressly stated. I consider that some of the proposed rules as notified are more akin to conditions normally imposed as part of a resource consent and in some instances are not appropriate, in the format proposed, as part of a plan change. Some of the rules contain discretions or require third party approvals and as such after undertaking a further evaluation of the plan change I consider modifications to the plan change are required as allowed by Clause 29 of the First Schedule³ of the RMA.
117. The proposed permitted activity standards, in my opinion, are quite permissive and are reliant upon certain activities to be in accordance with environmental management plans (EMP's) rather than triggering the need for a resource consent. This potentially could result in uncertainties for both Council and the applicant around timing of approval and how to resolve potential issues whereby there may be disagreement between the applicant and Council. To provide more certainty and to make the proposal more legally robust I recommend that some activities such as earthworks and construction would require a controlled activity consent. A controlled activities status for these activities will allow Council to recover costs and process /assess the activities more easily.

³ Clause 29(4)(a) "Procedure under this Part" of the first Schedule of the RMA states " *After considering a plan or change, undertaking further evaluation of the plan or change in accordance with section 32AA, and having particular regard to that evaluation, the local authority –*

(a) May decline, approve, or approve with modifications the plan or change:..."

118. As such Attachment J outlined in red underline my recommended amendments to the applicants rules package.

CONSIDERATION OF ALTERNATIVES, BENEFITS AND COSTS – SECTION 32 ASSESSMENT

119. The Council has a duty under s32 of the RMA to consider alternatives, benefits and costs of the proposed plan change. The s32 analysis is a process whereby initial investigations, followed by the consideration of submissions at the hearing, all contribute to Council's analysis of the costs and benefits of the proposed amended and new provisions in the Commissioners final decision. In summary s32 requires the following matters to be considered and evaluated:
- The extent to which objectives (purpose) of the proposal are the most appropriate way to achieve the purpose of the RMA;
 - Whether the provisions in the proposal are the most appropriate to achieve the objective (purpose) of the proposal by:
 - Consideration of other practicable options for achieving recognition of the existing dairy plant and its continued use and expansion
 - Assessment of the efficiency and effectiveness of the provisions in achieving the objective of the proposal. This includes identifying the benefits and cost of the environmental, social and cultural effects including opportunities
120. A submission was received from Hughes Development on behalf of Izone which considers that the Section 32 Evaluation, in particular the assessment of alternative locations is flawed due to the erroneous conclusions reached in relation to other industrial land available within the district. Further this submitter considers that the assessment of alternative locations does not address the synergies and efficiencies that could be attained by locating ancillary and related activities to existing business zones within the District. It is noted that the plan change, as recommended to be modified by this officer's report, will ensure that the proposed plan changes activities are explicitly restricted to dairy processing activities only, with any other activities specifically excluded. Further, the activities within the DPMA are recommended to be restricted to Synlait only to avoid other business activities establishing in the DPMA. Therefore this submission point is not particularly relevant as the plan change represents an

expansion of existing activities and it would be inappropriate to locate such activities other sites within the District.

121. The applicants have undertaken a detailed s32 evaluation as part of the plan change so I will review this and comment as necessary.
122. I agree with the applicants that the proposed plan change achieves the purpose of the Act for the reasons outlined by the applicants, subject to my proposed alterations and recommendations. I agree with the applicants that the proposed plan change is the most reasonable practicable option.
123. With regard to the assessing the efficiency and effectiveness of the proposed provisions in achieving the objective of the proposal. I concur with the applicant's assessment, subject to my proposed alterations and recommendations that the plan change provisions would be the most efficient and effective in achieving the objective of the proposal, i.e, recognition of the existing dairy plant and its continuing efficient use and expansion.

PART II MATTERS

124. The RMA requires the Council to manage the use and development of physical resources in a way, or at a rate, that will enable the community to provide for its social, economic and cultural wellbeing while avoiding, remedying, or mitigating any adverse effects of activities on the environment (Section 5).
125. It is my opinion that PC43 would achieve the purpose and principals of the Act if the rules framework was amended as discussed to ensure a more robust development approval process.
126. There are no "Matters of National Importance" listed in Section 6 that are considered to be of specific relevance to PC43.
127. Council must "have regard to" the following "other matters" (s7) when considering the appropriateness of PC43.

(b) The efficient use and development of natural and physical resources

(c) The maintenance and enhancement of amenity values

(f) Maintenance and enhancement of the quality of the environment

128. Overall in my view, the proposed DPMA will achieve a number of positive economic outcomes whilst enduring any adverse effects are adequately avoided, remedied or mitigated. The establishment of the DPMA will provide for the continued growth of the dairy processing operation by providing an appropriate framework. Further it provides certainty around future development for all parties.
129. The proposed DPMA, and proposed rules (as recommended to be amended) provide sufficient controls and provide certainty to all parties to ensure any adverse effects are adequately avoided, remedied and mitigated thus is able to satisfy the relevant other matters as detailed above in Section 7.
130. There are no known sites of significance or specific cultural values affecting the development and Iwi have been consulted as part of the RMA process. The Treaty of Waitangi has been considered in preparing and assessing the PC43.
131. In conclusion, it is my opinion that PC43 as recommended to be amended will achieve the purpose of the RMA.

RECOMMENDATION

132. Plan Change 43 seeks to introduce a Dairy Processing Management Area within the Rural Outer Plains zone of the District Plan. The Plan Change introduces a new policy which describes the purpose of the DPMA and a new Appendix containing a specific set of rules for activities and buildings relating to dairy processing.
133. My recommendation on submissions are set out in **Attachment B**.
134. I largely agree within the intent of the Plan Change and it is my recommendation that PC43 be accepted subject to my recommended modifications and clarifications required as outlined within this report.

Private Plan Change 43: Synlait Milk Limited

Submitter Number	Submitter	Address	Submission	Oppose/Support	Relief Sought	Wish to be Heard?
1	New Zealand Transport Authority	P O Box 1479 Russley, Christchurch 8140	Support plan change and seek inclusion of a access related conditions.	Conditional Support	<p>The NZTA seeks the addition of a provision specifying that signs directed at the State Highway require approval from NZTA prior to being erected at the site.</p> <p>The NZTA also seeks amendments to the provisions under Rule 26.31(b) to increase the separation distances between any two outdoor signs.</p>	Yes
2	Philip Hindin and Yuying Wan	Unit 4-17 Wise St Christchurch 8024	Support plan change except the proposed Noise Control Boundary.	Support in Part	<p>If Council believes the noise control boundary is necessary we request the Council amend the proposed ODP so that the noise control boundary more accurately reflects the predicted noise effects and request that the red line marked on the attached plan be used.</p> <p>Amend Clause 3.13.1.6 (Plan</p>	Yes

					Change Appendix 1) should be written to specify the noise reduction performance required and the means of verification. Reference to ventilation is unnecessary as this is already required by the building code.	
3	Fonterra Co-Operative Group Limited	P O Box 49, Allen Street, Morrinsville.	Support Plan Change as notified.	Support	Approve plan change as notified.	Yes
4	Makaanui Kurataiao Ltd	PO Box 3246, Christchurch Level 2, Rehua Marae, 79 Springfield Road	<p>Seek to reiterate the recommendations sought in the Cultural Impact Assessment.</p> <p><u>Landscape Planting:</u></p> <ul style="list-style-type: none"> a) The landscape plan should reflect a commitment to reinstate biodiversity values and to improve amenity. b) Use native species that were originally found in this location. c) Planting as part of stormwater management. <p><u>Earthworks:</u></p> <ul style="list-style-type: none"> a) Seek that volumes exceeding 5000m³ are classified as a controlled activity, or that 	Oppose	That the application be declined as the effects of the activities are more than minor. Unless appropriate assessment and mitigation for potential adverse effects are identified with Te Taumutu prior to a hearing date.	Yes

			<p>Rule 26.11 includes explicit provisions of what the earthworks management plan ought to include</p> <p><u>Lighting:</u></p> <p>a) Ensure rule 26.21 is written to identify and enable light suppression techniques to minimise the impact on landscape and views. Further need to ensure that an assessment of the current lighting environment is measured and assessed as a way of monitoring future impact of increased lighting.</p> <p><u>Low Impact and sustainability Based Design Principles:</u></p> <p>Investigate opportunities to incorporate low impact design and sustainability options into the new rules.</p> <p><u>Outline Development Plan:</u></p> <p>A stormwater management plan should be included as part of or sit alongside the ODP showing the design concept for stormwater collection, treatment and disposal.</p>			
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			<p><u>Managing Discharges in an Integrated Manner:</u></p> <p>Concern regarding how discharges can be managed in an integrated and comprehensive manner. This is important considering the nitrogen limit set for the Selwyn Waihora Catchment.</p> <p><u>Consistent approached to zoning and Rules:</u></p> <p>The Runanga encourages a consistent approach to managing the continuing development and potential expansion of the Fonterra Plant and Darfield. It would be beneficial to have both dairy processing plants managed under the same zoning and rules.</p> <p><u>Other matters:</u></p> <p>The use of Titania as a permitted colour is not considered appropriate in a rural environment and fails to mitigate the visual impact of any new buildings.</p> <p>Any breach of height limit should be a discretionary activity.</p>			
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5	Hughes Developments	C/- Davie Lovell Smith, P O Box 679, Christchurch	<p>Oppose Plan Change for the Following Reasons:</p> <ul style="list-style-type: none"> a) The Plan change infers that the Dairy Processing Management Area is necessary to support the growth and expansion of existing activity on the site, however no justification is provided as to the growth expectations and land requirements in support of the large area included within the plan change. b) The Issues, Objectives, Policies and Rules provide for a wider scope of activity that which relates explicitly to Dairy processing activity. c) The reason for the plan change cites consolidation of existing activities whereas the Plan Change has been drafted to allow for the creation of new activities. d) The Land Use Recovery Plan identifies greenfield business priority area. This Plan Change provides for activities more akin to a business zone. Although located outside Greater Christchurch 	Oppose	<p>Withdraw Plan Change in its entirety.</p> <p>If above is not granted then seek the following changes:</p> <ul style="list-style-type: none"> a) Amend the plan change so that it explicitly relates and provides for upgrade, expansion and diversification of the existing dairy processing activity only. b) Draft a stronger set of objectives, policies and rules to restrict 'other' activities from establishing within the plan change area. 	Yes

			<p>boundary the broad business zone characteristics exhibited by the plan change are contrary to the LURP in that it will directly impact on greenfield business priority areas within the Selwyn District.</p> <p>e) The economic impact assessment does not address any potential negative impacts the proposed plan change will have on areas already zones for the level s of related and ancillary activity being promoted by the plan change.</p> <p>f) The Section 32 assessment as it relates to alternative locations in flawed due to the erroneous conclusions reached in relation to the other industrial land available in the district.</p> <p>g) The plan change document states the District Plan Review Process is not appropriate to achieve the outcomes sought by the plan change. It is noted the plan change documentation lists a number of unimplemented consents which would mitigate the perceived time inefficiencies</p>			
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			aligned within the District Plan Review process			
6	Dairy Holdings Ltd	P O Box 549, Timaru	<p>Oppose Plan Change for the following reasons:</p> <p>a) Access Transport</p> <ul style="list-style-type: none"> The plan change will allow for a 242% increase in daily traffic movements. This will create an adverse effect on the intersection of SH1 and Old South Road. As landowners in the vicinity concerned about the increase in traffic on roads that are not designed for that frequency. The intersection at Irvines Road and Old South road does not meet general safety design standards. 	Oppose	<p>Seek the following:</p> <p>A) Dedicated alternative route for vehicles heading south should be made such as Old South Road.</p> <p>B) Appropriate road safety changes to the wider transport network where necessary.</p>	Not indicated

ATTACHMENT TWO – RECOMMENDATIONS ON SUBMISSIONS

New Zealand Transport Authority	Accepted	Submission is accepted and modifications to plan change have been proposed accordingly within the officers report.
Philip Hindin and Yuying Wan	Accept in Part	Submission is accepted with regard to the suggested amendments to the Noise Control Boundary. Submission rejected with regard to Synlait being responsible for ensuring noise generated does not exceed limits at the boundary of the subject property as the district Plan requires noise to comply at the notional boundary of a property.
Fonterra Co-Operative Group Limited	Accepted	Submission accepted.
Makaanui Kurataiao Ltd	Accept in Part	Part of submission regarding use of colour Titania rejected. Submission point seeking integrated approach to be adopted with regard to servicing is rejected as given the long time period for development of the site it is more practical to deal with servicing upgrades on an as needed basis. Submission point regarding earthworks is accepted and a modification to the plan change has been recommended requiring a controlled activity consent for earthworks exceeding 5000m ³ .
Hughes Developments	Accepted in Part	Modifications to the plan change have recommended to ensure plan change explicitly relates to and only provides for the upgrade, expansion and diversification of the existing dairy processing activity only.
Dairy Holdings Ltd	Rejected	Mitigation proposed by the applicant is considered appropriate and sufficient to alleviate concerns raised by this submission.

22 October 2014

Planning Manager
Selwyn District Council
PO Box 90
Rolleston 7643

Attention: Tim Harris

Dear Tim

Synlait Private Plan Change - trade competition issues

- 1 We refer to our letter dated 19 August 2014 in which we advised that in our opinion the submission by IZONE is made by a trade competitor as it is defined in the Resource Management Act 1991 ("RMA").
- 2 Whilst it is not directly apparent from the submission as lodged, we understand that the submission is made by the "occupiers" of the IZone land. However for the purposes of this opinion, we have had regard to the position of both the occupiers and the owners of the site.
- 3 For the purposes of this opinion we have had regard to the nature and extent of the application before the Council and the law insofar as it relates to plan change processes and resource consents. In this regard we are of the view that the trade competition issues are common to both RM processes.
- 4 The relevant facts we have relied on for the purposes of this opinion are:
 - 4.1 The plan change is for a Dairy Processing Management Area overlay and is limited to the existing Synlait site. The plan change does not change the underlying rural zoning and it provides for rural activities to continue.
 - 4.2 The range of activities provided for are both core dairy processing buildings and structures as well as ancillary business activities that meet the test of having a direct connection with the business of processing and export of dairy products.
 - 4.3 The areas are physically separated by approximately 20 km.
 - 4.4 The submission is silent on whether the submitter itself considers itself a trade competitor or not.
- 5 Below we have set out our legal opinion in relation to this issue.

Relevant Provisions: RMA

- 6 Section 74(3) of the RMA provides:
 - (3) *In preparing or changing any district plan, a territorial authority must not have regard to trade competition or the effects of trade competition.*
- 7 Clause 29, Schedule 1 to the RMA provides:
...

(1A) Any person may make a submission but, if the person is a trade competitor of the person who made the request, the person's right to make a submission is limited by subclause (1B).

(1B) A trade competitor of the person who made the request may make a submission only if directly affected by an effect of the plan or change that

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition.

Case Law

- 8 The Courts have determined trade competition issues based on the factual circumstances of each case. There is no one trigger which elevates a submission to be considered in terms of the trade competition sections of the Act.
- 9 The relevant facts in the submission which we regard as determinative of raising the issue of trade competition are:
 - 9.1 The synergies/efficiencies which the submitter identifies with IZone land.
 - 9.2 The Stage 7 IZone development which are asserted meet the terms for Dairy Processing.
 - 9.3 The references to land already zoned which could be available for the proposed DPMA uses and particularly uses ancillary to dairy processing.
 - 9.4 The benefits to the submitter of narrowing the scope of the DPMA – so as to make the only available alternative land within IZone (in the absence of a resource consent). These benefits presumably are aimed not only at the perceived synergies but also benefits of creating demand for IZone land in the market.
- 10 The submission by IZONE seeks to obtain an advantage in trade competition by seeking to prevent activities establishing on the Synlait land rather than business zoned land (referring in particular to the existing presence of dairy processing within IZONE and synergies and efficiencies that could be attained by locating ancillary and related activities within already zoned land).
- 11 The Environment Court has held that trade competition covers not only retail traders as such and similar activities, but extends to property owners who may compete for lessees, or other utilization of their assets.
- 12 For example, in *Queenstown Property Holdings Ltd v Queenstown Lakes District Council* [1998] NZRMA 147 the Court held:

As a separate aspect the proposition in Woolworths seems to breach section 104(8) of the Act. It appears to be overlooked that there are at least two kinds of trade competition under that subsection. The first is competition between the retailing trades i.e. supermarkets. Consideration of the effects of that competition is clearly forbidden by section 104(8). But we also need to consider the trade competition between property owners. The owner of the supermarket building (not necessarily the same legal entity as the supermarket operator) is in competition with the other property owners in Queenstown. There is no definition of "competition" or "trade competitors" in the Act but we hold that property owners are just as much trade competitors as shop operators. That is the economic reality. To make a distinction between trade and property competition is unreal and would have a decidedly Victorian air to it.
- 13 The Court went on to conclude that the phrase "trade competition" in the Act includes any activity relating to the buying and leasing (and/or eventual sale of land).

- 14 You have referred us to the case of *Queenstown Central Ltd v Queenstown Lakes District Council* [2013] NZRMA 239. In that case the High Court referred to the fact that the two relevant parties, Queenstown Central Limited (“QCL”) and Shotover Park Limited (“SPL”), were property owners who were disagreeing on the appropriate zoning of their respective parcels of land. There was limited flat land available to be rezoned in Frankton Flats which had to cater for a variety of uses (i.e. low cost housing, retail/commercial, industrial). It is in the context that owners of land had to compete to get their land zoned for the highest value use. The High Court held that property owners competing for the best use of land is not trade competition.
- 15 However this finding is not applicable to the present situation. IZone and Synlait Milk Limited are not competing over the best use of their land – that is, IZONE is not saying its land should be rezoned in preference to the Synlait site. Rather IZONE’s concerns relate to the impact of the Synlait Plan Change on the ability of the IZONE to retain and attract new lessees (which as set out above has been held to be trade competition).

Application of test in Clause 29

- 16 On the basis that IZONE is a trade competitor the a submission can only be made if the IZONE is directly affected by an effect of the proposed policy statement or plan that—
- (a) adversely affects the environment; and
 - (b) does not relate to trade competition or the effects of trade competition.

Is IZONE directly affected by an effect of the plan change that adversely affects the environment?

- 17 The concern of IZONE relates primarily to an understanding that the plan change will create a zone more consistent with a Business Zone, and the provision for ‘other’ activities except dairy processing within the statutory framework.
- 18 However, the list of activities that are permitted within the Dairy Processing Management Area (“DPMA”) are fundamentally based on the processing, testing, storage, handling, packaging and distribution of milk and dairy products, related by-products and ancillary activities. An explanatory note to the list of permitted activities advises that the processing and use of milk is the purpose of, and principal use within the, DPMA. Thus the plan change has been deliberately drafted to prevent a range of activities establishing within the DPMA.
- 19 The plan change is clear that the provisions can only apply to established dairy processing sites. It therefore does not provide an opportunity for the establishment of new dairy processing plants within a DPMA. Rather the plan change is to recognise the existing dairy plant established by Synlait and to provide for its continuing efficient use and its future expansion.
- 20 Further, it is not plausible that existing plants, such as the Synlait site, would decommission and seek a new location elsewhere, such as in the IZONE, as to do so would be cost prohibitive.
- 21 Therefore IZONE is not directly affected by an effect of the plan change.

Do any such effects go beyond the effects of trade competition?

- 22 In any event, for the reasons outlined above in the context of the relevant case law, the effects raised relate to trade competition. The submission does not raise any issues that go beyond trade competition.
- 23 The Courts have explained that, despite section 74(3), effects may go beyond trade competition and become effects on people and communities and their wellbeing, however they must be significant to be regarded as beyond the effects ordinarily associated with trade

competition on trade competitors. In *Pohutukawa Coast Community Assn v Auckland Council* [2013] NZEnvC 104 the Court summarises the questions that must be asked as established by the relevant authorities as follows:

- (a) Are there effects beyond those caused by trade competition?
- (b) Are those effects significant?
- (c) Are those significant effects such that, weighed in the balance with all other relevant matters, the plan change should be approved?

24 Due to the way in which the provisions have been drafted (as outlined above) it is ensured that the plan change will not result in significant effects.

Conclusion

25 We therefore consider that the submission by IZONE is in breach of the Act and should not be considered by the Council.

26 We look forward to receiving the Council's views on this matter.

Yours sincerely



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Attachment D Legal opinion – Paul Rogers, Partner, Adderley Head



4 November 2014

Mr T Harris
Selwyn District Council
PO Box 90
Rolleston
Rolleston 7643

Email: tim.harris@selwyn.govt.bz

Dear Tim

SYNLAIT PRIVATE PLAN CHANGE - TRADE COMPETITION ISSUES

- 1 We have reviewed the opinion from Duncan Cotterill dated 22 October 2014 regarding trade competition issues associated with the Synlait Private Plan Change. The letter provides our response to that opinion.
- 2 In summary, we do not agree with the conclusion reached by Duncan Cotterill that the submission by Hughes Developments Limited on behalf of IZONE Industrial Park is made by a trade competitor. The reasons for this view are set out below.

The issue

- 3 Synlait Milk Limited (Synlait Milk) has lodged a private plan change request to provide for its core dairy processing activities and related and ancillary business activities at the existing Synlait Milk site. A submission was made in the name of "Hughes Developments Limited on behalf of IZONE Industrial Park" opposing the plan change.
- 4 Duncan Cotterill (on behalf of Synlait Milk) has raised the issue that the submission has been made by a trade competitor of Synlait Milk. It therefore concludes that the submission is in breach of Schedule 1, Clause 29 of the Resource Management Act and should not be considered by the decision maker.
- 5 To address this issue, we have considered the meaning of "trade competitor" and applied that meaning to the current facts to determine whether or not the submission has been made by a trade competitor of Synlait Milk.

What is a "trade competitor"?

- 6 The phrase "trade competitor" is not defined in the RMA. Case law must therefore be relied upon to determine the meaning of this phrase.

Duncan Cotterill position – 1998 decision

- 7 The key authority that Duncan Cotterill relies upon to determine the meaning of "trade competitor" is an Environment Court decision from 1998¹, which involved a proposed supermarket in Queenstown.

¹ *Queenstown Property Holdings Limited v Queenstown Lakes District Council* [1998] NZRMA 147

- 8 As a starting point, we question the reliance on a decision that is now 16 years old, particularly given the other decisions have been made since this time based on the current trade competition provisions. At the time of this decision, section 104(8) of the RMA required that a consent authority must not have regard to trade competition. However, there were no provisions that directly limited submissions by trade competitors as now exist within the RMA.
- 9 In that case, the Court held that property owners are just as much trade competitors as shop operators and that trade competition included the buying and leasing (and/or eventual sale of land). It therefore declined to consider the effects of the proposed supermarket on other property owners, including owners of commercial property in other parts of Queenstown.

Most recent decision – QCL v QLDC

- 10 This approach can be contrasted with the recent High Court decision in *Queenstown Central Limited v Queenstown Lakes District Council*², which was made under the current trade competition provisions. This was an appeal against an earlier decision of the Environment Court³, which approved a resource consent application for (once again) a supermarket in Queenstown. We consider this to be the leading authority of trade competition and discuss it in detail below.
- 11 The three parties to the initial Environment Court proceedings were Foodstuffs (the applicant for the new supermarket), Queenstown Lakes District Council (the respondent), and Queenstown Central Limited (QCL – a s274 party). The land on which the Foodstuffs supermarket was proposed was owned by Shotover Park Limited (SPL), but SPL was not a party to the Environment Court proceedings. The Environment Court decision to grant consent was appealed by QCL, with SPL joining the proceedings at that time.
- 12 QCL's interests in the proceedings were two fold. Firstly, it owned land in close proximity on which the proposed supermarket could potentially locate. Secondly, it was the applicant for resource consent for a Countdown supermarket on a separate parcel of land owned by its sister company Queenstown Gateway Limited (QGL). QCL vigorously participated in both the Environment Court and High Court proceedings opposing the proposed Foodstuffs development.
- 13 These proceedings were complicated by the fact that the consent application was being considered at the same time as a plan change to determine the appropriate form and pattern of urban development of the remaining Greenfield land in the area (PC19). As such, the comments made by both the Environment Court and the High Court make reference to issues associated with PC19, rather than strictly related to the resource consent application.
- 14 Issues of potential trade competition first arose in the Environment Court, with the Court noting that QCL's actions had a "*strong flavour of anti-competitive behaviour*"⁴. The Court discussed the various parties involved in the broader PC19 issues and concluded that QCL (given its property interests described above) was a trade competitor of SPL (as the owner of the land on which supermarket was proposed). This finding was consistent with the earlier 1998 Environment Court decision discussed above.
- 15 These findings on trade competition were one of the key reasons why the Environment Court decision was appealed to the High Court. QCL claimed that the

² [2013] NZRMA 239

³ *Foodstuffs (South Island) Ltd v Queenstown Lakes District Council* [2012] NZEnvC 135

⁴ *Ibid*, at para 263

Environment Court was wrong to classify it as a trade competitor, and that this conclusion reduced the weight that was given the QCL's evidence and materially influenced the Environment Court's decision to grant consent.

- 16 In considering this issue, the first important point made by the High Court was that the Environment Court's conclusion about trade competition between QCL and SPL was confined to the PC19 proceedings (even though PC19 was not the subject of the decision). The Court then went on to consider whether this conclusion was correct – i.e. was QCL a trade competitor of SPL.
- 17 The High Court noted that in the context of PC19, QCL and SPL were in competition for the best uses of appropriately zoned land in the Frankton area and were disagreeing about the appropriate zoning of their respective parcels of land. It held that this was a form of competition or competing with each other, but that it does not follow that they are in trade competition⁵.
- 18 The Court held that in the absence of a statutory definition, the qualifier of "trade" should be interpreted by taking into account the mischief that the RMA provisions were intended to address⁶. This "mischief" was described as businesses competing in trade (unrelated to the purchase and development of land) taking an interest in RMA matters involving their competitors⁷. Particular reference was made to supermarket operators running sophisticated planning arguments to oppose applications by their rivals to locate in their customer catchment. The amendments to the RMA were introduced to prevent this from occurring.
- 19 With this purpose in mind, the Court went on to reach the following conclusions on trade competition in this case:

[157] There is no doubt that the Environment Court was perfectly aware that neither SPL nor QCL were directly active as retailers. It dubbed them as trade competitors by their association with Foodstuffs and with Progressive. SPL and QCL are property developers. Property developers develop property with an eye to the market for that property. That does not make them participants in the trade of the use to which the property is likely to be put. There is nothing in Part 11A of the RMA to suggest such an extended definition.

[158] Keeping in mind the overall policy of the RMA to allow all-comers to participate, there is no justification for extending the phrase "trade competitors" to property developers competing for the best use of land. I am satisfied that the Environment Court was in error of law in categorising SPL and QCL as trade competitors.

Summary of case law position

- 20 We consider that the above statement is a clear departure from the 1998 Environment Court decision, which held that competition between property owners can be trade competition. This High Court decision is informed by the purpose of recent changes to the RMA and confirms that property owners competing for the best use of land are not trade competitors under the RMA.
- 21 Duncan Cotterill's discussion of the above decision is very limited. However, the apparent interpretation they have adopted is that this principle only applies when two landowners are advancing competing propositions in relation to their own

⁵ *Queenstown Central Limited v Queenstown Lakes District Council* [2013] NZRMA 239 at para 154-155

⁶ *Ibid*, para 156

⁷ *Ibid*, para 145

land. They suggest that it does not apply when one landowner is opposing the proposed development of another.

- 22 We note that the subject matter of the above decision was one landowner (QCL) opposing an application by a retailer (Foodstuffs) due to the potential benefits to QCL if the application was declined. This is direct competition between the two parties, rather than each party competing for the best use of its own land.
- 23 Notwithstanding the above, we accept that the High Court's comments on trade competition seem to be made in the context of PC19, not the resource consent application. This provides some foundation for Duncan Cotterill's argument that the findings should be limited to this context. However, we do not agree with the conclusion that Duncan Cotterill has reached.
- 24 Despite the context in which the High Court's comments were made, we consider that they are of general application, regardless of context. The High Court interpreted the meaning of trade competitor in light of the purpose of the relevant RMA provisions, which was to prevent the ongoing "supermarket wars" that had become common place. It therefore held that trade competitors should be limited to competing traders of this sort and should not extend to competition that may occur between property owners.
- 25 We consider that there is no good reason why this principle should not also apply to other planning contexts. For example, under the Duncan Cotterill interpretation, a landowner would be entitled to submit on an area wide plan change opposing the proposed zoning of one block of land and promoting their own as a better location for the same use. However, they would be precluded from opposing the same rezoning of the same block of land if it was proposed through a site specific plan change, regardless of the practical impact it may have on the development potential of its own land. We can see no valid basis for this distinction and consider that it is inconsistent with the High Court findings discussed above.
- 26 For the above reasons, we consider that property owners competing with each other through an RMA process to obtain a benefit for their land are not trade competitors, regardless of the context in which this competition arises.

Is the submission made by a trade competitor of the person who made the request?

- 27 Clause 29 of the First Schedule to the RMA limits the ability of a person to make a submission on a plan change request if they are a trade competitor to the person who made the request. It is therefore necessary to clearly identify the parties involved before applying the principles discussed above.
- 28 The plan change has been requested by Synlait Milk, which owns and occupies part of the plan change site for its existing dairy plant. The remainder of the plan change site is owned by Synlait Farms, with Synlait Milk currently in the process of securing an agreement with Synlait Farms in respect of the plan change.
- 29 The identity of the submitter is somewhat ambiguous based on the wording used in the submission. The name of the submitter is listed as "Hughes Developments on behalf of IZONE Industrial Park". However, the submission is signed by Mark Brown of Davie Lovell Smith "on behalf of Hughes Developments".
- 30 Based on the information provided to us, we have assumed that the submitter is Hughes Developments in its role as the manager of the Izone Southern Business Hub. Hughes Developments does not own the land at Izone, but is responsible for

the day-to-day management, including sales and marketing, site development and strategic planning on behalf of Selwyn District Council as landowner.

- 31 We therefore have a submission from a land management company that is responsible for an industrial business park, opposing a plan change by the owner and occupier of land that is to be used for expanded dairy processing and related activities. The overlap between their interests is in the types of activities that may seek to establish on their respective areas of land. In this context, the issue for determination is whether one is a trade competitor of the other.
- 32 This situation is slightly different to that discussed in the Queenstown High Court case, where the Court's comments on trade competition were made in the context of two competing landowners (QCL and SPL). In this case, we have a land management company potentially competing against a landowner/occupier. However, we consider that nothing turns on this distinction. The current scenario is effectively the same as two competing landowners as both parties have an interest in maximising their land's development potential and are competing with each other to achieve the best use of their land.
- 33 As discussed in detail above, we consider that the current state of the law is that landowners competing with each other for the best use of their land are not trade competitors. On this basis, we conclude that Hughes Developments is not a trade competitor of Synlait Milk under the RMA and is not limited by clause 29 when making a submission on the plan change.
- 34 In light of this conclusion, it is not necessary to consider whether the submission complies with the limitations of clause 29 that apply to submissions by trade competitors. However, we do note that the answer to this question (if relevant) will depend in part on the definition of trade competition and whether or not the issues raised in the submission relate to trade competition or its effects. This consideration will be informed by some of the same matters discussed above.

Conclusion

- 35 For the above reasons, we consider that trade competition does not include one property owner / manager competing with another to try and achieve the highest and best use of their land. On this basis, in our opinion the submission by Hughes Developments has not been made by a trade competitor of Synlait Milk. It is therefore open for the submitter to participate in the hearing and for the issues raised in the submission to be considered on their merits.
- 36 We trust this advice is of assistance and are happy to answer any further questions you may have.

Yours faithfully
ADDERLEY HEAD



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Partner

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Our ref: DOP-038777-130-27-V1

Attachment E Landscape and visual – Jeremy Head, Consultant Landscape Architect

Proposed Dairy Processing Management Area
Dunsandel (Synlait Milk Ltd)

PRIVATE PLAN CHANGE REQUEST

PEER REVIEW

of:
**APPLICANT'S ASSESSMENT OF LANDSCAPE
AND VISUAL EFFECTS**

November 2014

Prepared for Selwyn District Council by:
Jeremy Head
Jeremy Head Landscape Architect Ltd.

Introduction

Background

This report provides a peer review of the visual and landscape assessment (prepared by Wade Robertson) accompanying a private plan change request to Selwyn District Council.

I understand the plan change introduces a “Dairy Processing Management Area” (DPMA) layer to the Rural (Outer Plains) Zone of the Selwyn District Plan. The DPMA (stage 1) would be located on land owned by Synlait Milk Ltd currently occupied by the existing Synlait Dairy plant at Dunsandel. The DPMA (stage 2) is on land currently owned by Synlait Farms. The purpose of the DPMA plan change request is to recognise the existing dairy plant, to allow for its continued efficient operation, ongoing expansion, and to provide a degree of certainty as to how the contextual environment would change with regard to potentially affected parties. I understand that due to the nature of the plan change process, the applicant is not obliged to provide design specifics, but is required to develop the site in general accordance with the Outline Development Plan (ODP) while adhering to the relevant existing and proposed District Plan standards. It is further understood that the ODP indicates anticipated maximum built form of the dairy plant which is expected to be implemented over a thirty year timeframe¹.

This peer review focuses on the potential effects of the DPMA and how well these have been considered in the applicant’s landscape architect’s report.

I am familiar with the application site, the receiving environment - which is determined by the extent of any potential adverse effects, and I am reasonably familiar with the Synlait plant’s development history. I prepared landscape peer reviews for Council regarding Synlait’s proposed “Drystore 3” (June 2011), proposed “Stage 3 (part B) Drystore and Cold Store” (March 2013) and the proposed “Stage 4 Dryer 3” (November 2013). I understand that these stages have now been granted Resource Consent, with attached conditions and are either completed or under construction. I have familiarised myself with the current plan change application and the landscape and visual assessment

¹ The DPMA is anticipated to include a maximum of 6 drystores, 8 dryer towers, 6 boilers, a rail siding, ancillary buildings, 2 transport yards and areas for wastewater treatment and stormwater management.

report component. These earlier sequences of development are considered relevant in this application, in that the establishing planting is now partly relied upon as mitigation of landscape and visual effects for the current proposal.

Scope

As mentioned, I will provide comment on the landscape matters pertaining to the application, the Outline Development Plans (ODPs)² and the visual and landscape assessment (VLA) report prepared by Mr Robertson and further information and advice related to the effects of the proposed DPMA on landscape and visual values.

I also consider:

- the statutory considerations arising from the Selwyn District Plan relating to landscape matters and rural amenity and the extent to which they have been addressed in the landscape assessment,
- the analysis and conclusions drawn on the landscape effects of the plan change,
- public submissions received,

and

- any gaps and shortcomings in the assessment undertaken as part of the assessment of environmental effects prepared by the applicant's landscape architect.

My report concludes that overall, I generally agree with the applicant's landscape architect's conclusions - subject to clarification and or inclusion of a few matters outlined later in this report. My recommendation is also that previously consented landscape conditions aimed at achieving appropriate landscape outcomes are implemented within the specified time frames.

² Two ODPs are included in the application, including a second in the VLA that includes landscape treatment and timing of planting.

The review has considered the information that has been made available to date. It is possible that my reasons and conclusions may be altered in response to new information arising that becomes available prior to or at any hearing of the application.

In my opinion the central landscape issue concerns whether it is appropriate to enable further development of the activity within the site and its rural context; and whether any adverse effects on landscape and amenity values are acceptable following their avoidance, remediation or mitigation. I accept that fundamentally the proposal involves the expansion of existing activity, which currently contributes to the character and amenity of the existing local environment. I am also of the opinion that the existing operation, although lawfully established, generates a level of adverse effects that have yet to be satisfactorily mitigated due to the short time that earlier mitigation planting has been in place³.

Specifically, any potential adverse effects will result from increased building domination arising from height and site coverage; excessive reflectivity and light spill, and the potential loss of green open space from which rural amenity is derived. These are chiefly visual rather than landscape effects, where the latter involves changes to the setting. Consequently it is the potential adverse visual effects that require mitigation to the point where they are appropriate, no more than minor in the medium to long term and therefore acceptable.

Review of proposed Objectives, Policies and Rules

The applicant proposes amendments to a number of provisions in the Selwyn District Plan, some of which are relevant to landscape matters. These include objectives, policies, and rules proposed by the applicant. With regards to the proposed amendment to Objective B3.4.2, the “....*processing of milk to dairy products on established plant sites....*” is sought to be added to the types of activities that can take place in the Rural zone. This is consistent with the thrust of this policy which recognises that the rural area is recognised principally as a business, rather than residential area. Objective B3.4.2 currently allows for a degree of diversity of activities to occur in the Rural zone.

³ I understand that mitigation planting was first put in place in 2008, and was significantly improved in 2011 with additional plants to enable better compliance with earlier conditions of consent.

However, Objective B3.4.2 also recognises that rural character must be maintained, that potential reverse sensitivity effects are avoided and that effects on amenity values are managed. Policy B3.4.3 seeks among other things that any effects that detract from amenity values are mitigated. The applicant has acknowledged this with an amendment to this policy that mitigation of adverse effects can also be achieved through rules, conditions of consent and adherence to an ODP controlling future development on established milk processing sites. A new policy B3.4.5 is proposed. Key to mitigating adverse landscape effects is the provision of the ODP, and in particular the provision of specific landscape works on the boundaries of the DPMA. Other than some concerns outlined below regarding signage, I am comfortable that the proposed changes to the wording of the various objectives, policies and rules will provide appropriate mechanisms to manage any adverse effects on landscape character and rural amenity values. From the proposed rules I have included points (denoted by double underline) I recommend be incorporated to better implement the ODP and relevant objectives and policies. In so doing, I am mindful of the need to ensure the existing and future activity is compatible with its rural setting.

PART E

APPENDIX 26

26 DAIRY PROCESSING MANAGEMENT AREA

Location of Buildings and Activities

26.3 All permitted activities shall be located within the Height Control Zone identified on the Outline Development Plan in Appendix 26A, with the exception of:

(a) Any low level directional/wayfinding signage;

Signage

26.25 The sign, unless it is a low level directional/wayfinding sign, is located entirely within the Height Control Area, and is not located on, or overhangs onto, any road reserve.

REASONS FOR RULES

Outline Development Plan, Buildings and Activities – Location and Height

Activities and buildings provided for in the Rural Buffer Area include those normally anticipated in the Rural Outer Plains Zone. In addition, low level directional/wayfinding signage and infrastructure servicing the Dairy Processing Management Area (DPMA) such as road, rail, wastewater and stormwater utilities are enabled in the Rural Buffer Area. These are not activities involving significant built structures or intensive clustering of buildings, and are therefore considered appropriate in the Rural Buffer Area.

Review of Visual and Landscape Assessment (VLA)

Key issues arising from my review are:

- The proposed amendments to the objectives, policies and rules relevant to landscape.
- The effectiveness of the landscape mitigation measures shown in the ODPs.
- With regard to implementing the ODP and achieving the intent of existing and proposed statutory provisions, consideration of the current health and likely projected growth rates of existing shelterbelt and specimen tree planting on or near the earth bunding whose purpose is to screen views from off-site vantage points, particularly from SH1.
- Consideration of the measures taken to mitigate more than minor adverse effects on rural character and amenity values of the area so as to achieve as best as possible the outcomes anticipated by the relevant objectives and policies discussed above.
- Shortcomings and inconsistencies in the VLA and ODPs.

Part 3 of the VLA “Existing Environment” describes the contextual landscape at various scales including “wider”, “local” and “plan change site” scales. Mr Robertson describes the existing landscape from many various selected viewpoints. Overall landscape character including the impact of the Synlait plant in its current form is then summarised. I agree with Mr Robertson’s landscape description and the conclusions he reaches in this regard.

The VLA then goes on to discuss and describe various different views and visual effects of the “Height Control Area” portion of the plan change site where the larger buildings would be located. The location of these viewpoints are broken down into ‘close up’, ‘middle ground’ and ‘distant’ views based on three radiating circles from the existing plant which also defines the extent of the receiving environment. For consistency, the radiating circles (and receiving environment) should be moved slightly northeastwards to recognise and account for the central location of the proposed Height Control Area. Also, in my experience, the plant is visible from some distance further south on SH1 than Mr Robertson’s viewpoint 10. However, on balance, I consider that the extent of the receiving environment and selected viewpoint locations as shown mapped in Appendix 3

of the VLA are a fair representation of where any potential more than minor effects on rural character and amenity would be felt.

Part 3.4 discusses the primary visual characteristics of the plan change site and in particular the effects of the existing plant. The proximity of the plant to SH1 is highlighted, which in my opinion involves most of those whose visual amenity is potentially affected by existing and future activity. Mr Robertson describes the plan change site as one of contrast between open pasture and the industrial plant. I agree with this, but do not agree that the plant is made up of relatively simple forms. In my opinion, the visual form and texture of the plant is quite complex compared with the visual simplicity of the surrounding rural landscape. Mr Robertson does however later acknowledge that peoples' perception of the site's character is 'industrial' and that the collection of built forms appears 'busy'.

Part 3.5 discusses visual amenity⁴. The RMA interpretation of Amenity Values (and also as per the Selwyn District Plan⁵) is defined as: *"Those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes"*. Mr Robertson lists some common perceptions people have of the rural area taken from Part B of the Selwyn District Plan. These include predominance of vegetation, land uses related to production, views unencumbered by structures, seeing and hearing wildlife. The Plan also lists some other rural characteristics that people identify with. These include *"...sense of open space, panoramic views, perception of rural outlook, business activity, an area to place activities that require lots of space, large areas of land, and distance from neighbours"*.

I agree with Mr Robertson's conclusion that the key amenity issue with regards to the plan change site as it exists is a visual one, arising from the cumulative effects of large buildings and associated activities on site corresponding to a decrease in surrounding open pasture. Mr Robertson states that the existing plant has become "accepted" by most - as have other "close to source" rural-industrial facilities elsewhere. This suggests that perhaps at first it was less well received. I agree that while this may be true, it should not be used as an incentive for relaxing the controls on the appearance of the

⁴ From Ministry for the Environment: *Managing Rural Amenity Conflicts*. February 2000 Ref: ME372.

⁵ Part B3.4 Quality of the Environment – Issues (pg. B3-036)

DPMA. It is evident from B3.4 of the Plan that people expect the rural landscape to continue to be predominantly open with natural patterns and elements predominating over built forms. This sentiment would still apply here.

Part 4 of the VLA moves into discussing the effects of the development of the DPMA in conjunction with the proposed ODPs on rural character and visual amenity. The ODPs indicate various building height “zones”, open areas, existing and proposed access points, a new rail siding, and various landscape treatments. An assumption is made under 4.2 “Development Scenario” on what the site, when fully developed would include in terms of numbers of dryer towers and so forth. I understand that this *includes* the various buildings etc of the current plant.

Effects are then categorised along a continuum from very low to very high. This approach is useful. To summarise, the level of effects on *rural character* are largely determined by how cohesive the proposal would be with the existing rural landscape. The impact on *visual amenity* is then discussed. The level of effects are determined when measured against several criteria including sensitivity of viewpoint location, nature of the viewing audience, bulk and scale of the likely development following a plan change, whether the activity is temporary or not, view distance, the character and complexity of the content of the view and transient qualities.

Landscape works are then discussed. It appears that the significant change put forward by the applicant, compared with earlier resource consent applications is that any mitigation planting will be implemented *prior* to the completion of construction of any building that increases the capacity for storage or processing - in effect the dryer towers and warehousing, being the larger built components occurring on the plan change site. This would give any mitigation planting at least some time to establish before built works requiring screening or buffering by vegetation were completed. It is also a strong signal to the public that Synlait are committed to a “comprehensive approach” to future development where the maintenance of rural character and amenity is also important. This planting strategy is introduced early in 1.3 “Background” of the VLA where it states: *“Our input into the proposed plan change seeks to move away from the current ‘develop and plant’ approach to landscaping to one that provides a comprehensive landscape overview for full development of the DPMA”*. This is also confirmed in *Rule 1*:

Landscape Staging on the ODP – Landscape. However in the descriptions of what the various landscape Areas A through E entails in the VLA, Mr Robertson states that: “*The implementation of this planting will be immediate (i.e. first planting season) following construction of any building that increases the capacity for processing or storage...*” However, this is no different to what has been done in the past and contradicts the earlier assertion regarding timing of landscape works in that planting *follows* construction. To be consistent, the VLA written report should state that planting occurs *prior to* construction.

There is also an inconsistency with regards to the key text between the two ODPs referring to existing planting. The ODP – Landscape indicates areas of “*Existing Planting to be Retained*” which partly overlies the Height Control Area (HCA). The other ODP confuses this by stating that development within the HCA will require existing vegetation removal. The areas of existing planting currently shown *inside* the HCA include a line of oaks and a planted bund for acoustic and amenity purposes. The oaks are visible in Mr Robertson’s Photo 7 and are also included in his illustrative sketches as mitigation planting. These trees are partly relied on as mitigation to views from the south now and in the future, demonstrated in Figures 2, 3, 12 and 13. These oaks are large-growing species⁶ and will over time provide a useful buffer to the existing dairy plant from this direction where there is a gap in the perimeter planting due to the location of a substation. I understand from communicating with Mr Robertson while preparing this peer review that the areas of ‘*existing planting to be retained*’ as shown on the ODP – Landscape, including that within the HCA will indeed be retained.

The various areas of planting A through G are described in detail in the VLA and are shown via cross and long section in the graphic appendices. Of note, tall evergreen species are proposed near the HCA, while solely deciduous species feature in locations more distant from the plant. Mixed (evergreen) indigenous tree and shrub planting is also used, largely to improve levels of biodiversity on site, however, no plant centres are specified. This would have a significant impact on the establishment and longevity of the native planting. In my opinion, the species proposed are appropriate to the site conditions. The form of the planting would be compatible with patterns of rural vegetation

⁶ Species were required from earlier conditions of consent to be selected from the following: English oak, pin oak, scarlet oak and red oak. 50% of the oaks used must be English oak.

(generally shelterbelts) and over time would either fully screen or buffer key views to the plant depending on viewpoint location.

Sheet 12 of the VLA appendices provides a plant list. This list includes trees, shrubs and groundcover species broken down into shelter belt, primary and secondary successional (native) species. Some of the species are asterisked as “suitable species for the Synlait DPMA” which infers that the majority of the plants included in the list would *not* be suitable. It would be more helpful if an *actual* (much shorter) list was provided. This in turn brings into question the necessity of a “successional” planting methodology. In my experience all of the asterisked plants could be planted out at the same time other than *Prumnopitys taxifolia* / matai (which is intolerant of strong wind). The other native plants listed are hardy enough species. It is stated in the VLA that additional native planting will be put in place “within two years of the screen planting above”. From the submissions, Makaanui Kurataiao Ltd. are particularly concerned with the lack of indigenous planting and biodiversity. The proposal by the applicant to implement over 1.2 hectares of native planting around the periphery of the site is admirable. I understand that the two year delay is to stagger planting costs. However, there is an added benefit in that after two years, the shelter planting above would have put on enough growth to provide some protection to young native plants. I recommend that the indigenous planting be put in place in one single phase, rather than in successional stages.

Area F (boundary planting along Heslerton Road) is described. The VLA states that any additional planting along here will be implemented between three and five years after construction⁷. The rationale for this is that there is already a pine shelterbelt in this location that has another 15 years of life left in it before it would need to be removed. Here, the HCA extends close to a public road (Heslerton Road). The mature shelterbelt currently provides adequate screening - particularly from long distance views which in reality extend as far as 4.5km south of the site on SH1. My recommendation is to implement the successional *Pinus* planting along Heslerton Road at the same time as Areas A through F; that is, at the onset of construction. Any planting along this boundary provides a visual screen for distant views, particularly from locations south of the site on SH1. And because the view angles in this instance are much shallower, any planting would need to be very tall before it provided any meaningful screening. It would be

⁷ Of any building in Stage 1 that increases the capacity for processing or storage.

advantageous that any replacement screen planting along Heslerton Road be given maximum time to grow before the established mature shelterbelt is removed.

The addition of the rail siding will have implications on views into the DPMA from points along SH1 where the key viewing audience is located. The two ODPs indicate these rail siding access points in contradictory locations, and shown at right angles to the main trunk line. To better understand the effects of these rail entries, it will be necessary to show these areas with more accuracy. The gap required in a shelterbelt to accommodate an entry to a rail siding will doubtless be much wider than that for normal motor vehicles that can enter at right angles. In my opinion, these points would likely require offset shelterbelts located to block or buffer any angling views into the site from SH1. It would appear that this could be easily achieved within the Rural Buffer Area. I recommend that the applicant demonstrate the effects of this and proposed mitigation more thoroughly, with a greater degree of plan detail and 3D model sketches in the same vein as the illustrative sketches in Appendix 4 for these locations.

The proposed rules allow for signage in the Rural Buffer Area. Standard height rules from the Rural (Outer Plains) Zone apply here (12m maximum). Signage can be fixed to or incorporated on any part of the building. This could allow for advertising material / company branding etc. to be placed up to 12m above the ground where it could be highly visible in the short to medium term before planting matures. A proliferation of signage would not be compatible with the relative austerity and natural colours and forms of the rural landscape and would be at odds with the purpose of a “rural buffer area”. My recommendation is to restrict signage in the Rural Buffer Area to low level directional signage only.

Part 4.3 of the VLA covers the assessment of effects themselves. Effects on rural character are addressed first. It is acknowledged that the plant could potentially double its current size over the next 30 years, with 40% of the DPMA being built upon. This excludes buildings in the Rural Buffer Area. These facts - the increased size and scale of the plant, but also its proximity (approximately 100m setback) from the key viewing audience on SH1 means that built forms would predominate over the generally natural character of rural elements (trees, grass, water courses and such like) and processes - at least at the local level in the short to medium term before any mitigation planting took

effect. The VLA finds that there would be no adverse effects on the wider rural landscape character. This is attributed to the fact that there is an industrial facility located on site which is relatively small compared with the surrounding expansive contextual rural landscape. My opinion is that there *will* be adverse effects, but that with avoidance, mitigation and remediation they would be acceptable and appropriate given the character of the existing environment and what the District Plan anticipates will occur within the Rural Outer Plains Zone.

Visual amenity is then discussed. The VLA concludes that the central issue is time, that is, many visual issues triggered by the DPMA will be mitigated gradually over time as mitigation planting matures. Mr Robertson then discusses in detail the various viewing audiences and the nature of their views. These include views from nearby dwellings, local roads and SH1. Factors that contribute to visual effects are described which include the form of the plant and nature of views (static or moving). Factors that mitigate visual effects are also described which include distance from the DPMA, orientation of views, existing vegetation cover, and the fact that there is an existing industrial component located within the DPMA now.

Visual effects are then ranked falling somewhere between very low to high depending on the aforementioned mitigation timeframes which are between the short and long term. This is a reasonable approach and I agree generally with the findings in the VLA. However, I draw attention to two exceptions.

The first is the statement that the majority of the occupants living around the site are likely to be associated with dairying - therefore would be more likely to accept further built development of the site. In my opinion, in the absence of a specific survey or any other supporting evidence, this is speculative.

The second is the assertion that occupants in vehicles tend to look in the direction of travel. This may be true for the driver, but not necessarily the passengers who in my opinion would be more likely to be distracted by the presence of the plant, especially given that it is evidently an anomalous contrasting object in an otherwise predominantly open and green rural environment.

The effects on views from SH1 are discussed next. Here, the primary mitigating factor relied upon is distance. The VLA states that the plant is seen at some distance, gradually increasing in the proportion of view as one approaches. Mr Robertson suggests that the viewer will therefore get “used to it”. He goes on to state that this is preferable to the plant suddenly “hoving in to view” as one rounds a corner for example. In my opinion, the visual effects are the same whether the visibility of the plant is revealed gradually or not. This is analogous to entering a cold swimming pool – either jumping in or walking in slowly. The effect is the same – the water is still cold.

Submissions

Makaanui Kurataiao Ltd. has sought in their submission that the application be declined on several grounds. There were three points raised in their submission relevant to landscape included below:

- a) The landscape plan should reflect a commitment to reinstate biodiversity values and to improve amenity.*
- b) Use native species that were originally found in this location.*

And further on under ‘other matters’:

The use of Titania as a permitted colour is not considered appropriate in a rural environment and fails to mitigate the visual impact of any new buildings.

In response, it is of my opinion, that the applicant has included a fair and reasonable amount of native planting as part of the proposal (native planting would cover 1.2 hectares). This will introduce levels of biodiversity (albeit relatively small given the overall size of the site) that do not currently exist. Of note, the site is currently more or less devoid of indigenous vegetation. Prior to Synlait’s involvement in the area I understand that the site was used for general farming activities. Any pre-existing native vegetation cover presumably would have been sparse at best. Furthermore, the scale of the buildings that would be associated with the plan change would be tall and bulky. In my opinion the primary vegetation type that would best mitigate any potentially adverse visual impacts of large bulky structures and maintain and enhance local rural amenity values should be exotic, robust, fast-growing, ultimately tall, tree species. This type of vegetation will screen or buffer the buildings adequately over the medium to longer term. Native vegetation growing in an exposed site such as this would be unlikely to attain

heights that would mitigate views into the site. Tall growing native planting is generally found only in sheltered forest environments.

Finally, the native species that would be used in the plan change are sourced from an appropriate well known planting guide⁸ and would in my view satisfy this submitter's point (b) above.

The colour '*Titania*' proposed by the applicant is considered "inappropriate" (by this submitter) in the rural environment and "ineffective at mitigating visual effects". '*Titania*' is a white-based colour found in the green colour palette. It has a reflectivity value (LRV) of 67⁹, and appears as a very faint grey-green. As I understand it from my involvement in earlier resource consent applications and hearings, the colour '*Titania*' provides adequate reflectivity levels for controlling internal heat levels in the drystores. While higher-reflectivity colours¹⁰ are generally synonymous with increased visual effects in the rural landscape - in which the submitter is correct, in this case it is my opinion that the colour is acceptable on landscape grounds for the following two reasons. Firstly, the colour is already present on the site, as it comprises one of the Synlait plant's colours now. To alter the colour in the plan change may reduce the plant's potential cohesiveness on the site, and could tend to make the plant appear planned in a less than integrated way. Secondly, the proposed boundary planting will reduce any adverse visual effects partly contributed to by colour down to minor levels in the longer term as the planting establishes, and the buildings are screened or buffered from view.

Conclusion

I am in general agreement with the majority of Mr Robertson's VLA. The primary buildings (dryer towers and warehousing) have been identified as the primary generator of potentially adverse landscape and visual effects due to their prominent bulk and verticality in an otherwise flat landscape. The various other smaller buildings and activities contained within the DPMA have not been considered in detail as they are largely absorbed amongst the larger buildings and by comparison would not be especially noticeable. I agree with this opinion.

⁸ 'Native Plant Communities of the Canterbury Plains', published by DoC, Christchurch 2006.

⁹ Pure white would be LRV100, while pure black would be LRV1)

¹⁰ Generally considered to be colours with an LRV higher than 40.

The location and form of the proposed Height Control Area and colours proposed is logical (in a landscape sense) where the sequencing of building heights, setbacks from SH1 and colours replicate that of the existing plant. Over half of the DPMA is retained as a Rural Buffer Area concentrating the larger buildings in one area rather which serves to cluster the adverse effects in one area rather than having them scattered sporadically across the DPMA. A significant proportion of the site is characterised by a substantial industrial development already, some of which is very close to SH1. I accept that this now informs the existing environment in the general locality of the plan change site. The former rural character of the site typically defined by abundant open space and greenery dominating built forms has now been subsumed by extensive built development over the past eight years or so, and is now irrevocably changed.

Existing establishing mitigation planting put in place for previous stages of development is partly relied upon to screen or buffer some views, particularly from south of the site on SH1, forming part of an overall mitigation package. Additional planting is proposed in various locations necessary to the provision of effective screening and buffering. Locations of the various proposed shelterbelts and tree copses take into account different view directions, time/exposure of views and a variety of viewing audiences. Screen (evergreen pine and macrocarpa) and buffer (deciduous *Quercus* and *Poplar* spp) planting has been located close to the periphery of the DPMA. This places the screening close to the potentially affected parties including SH1 where the largest, most varied numbers of affected people occur. This is the most appropriate landscape approach in this instance, as any vegetation will provide the fastest screening and buffering of tall buildings and structures due to the steep view angles experienced by affected parties.

It is my recommendation that:

1. All landscape planting listed as stages A-F on the ODP – Landscape is implemented simultaneously, prior to the construction of a new building which will increase capacity for milk processing or storage within the area identified as Stage 1 on the ODPs. This will ensure that the adverse effects of further large scale development on site will be mitigated as soon as possible.

2. Any native species be planted at 1m spacings overall¹¹ and implemented in a single phase, two years after the shelter planting in A-F above has been implemented. This will ensure that native planting 'thickens up' and covers any bare ground quickly suppressing weed growth, providing self-shelter, minimising soil and soil moisture loss and ensuring the long term success of this planting.
3. The successional *Pinus* planting along Heslerton Road be implemented at the same time as Areas A through F above. This will ensure that replacement screen planting gets underway as soon as possible and that the existing visual screen, from locations south of the site on SH1 are maintained.
4. The rail siding entry points are planted so as to screen angling views into the site from viewpoints along SH1.
5. Any landscape works on the periphery of the DPMA are strictly adhered to, and monitored carefully. This will ensure that plants establish quickly, that any dead, diseased or dying plants are promptly replaced. The development of a rapid, robust and well-maintained boundary planting structure forms the critical part of the mitigation package, without which the proposal would have significant adverse visual effects.
6. Signage in the Rural Buffer Area is restricted to low level directional/wayfinding signage.

In addition to the above recommendations, there are some inconsistencies in the VLA / ODPs that I have outlined in this report. These will need remedying and clarifying before I was satisfied that the plan change proposal is capable of suitably managing any adverse effects on landscape character and amenity.

Jeremy Head
Registered Landscape Architect
November 11, 2014

¹¹ E.g. there will be one native plant located per every one square metre.

BEFORE THE SELWYN DISTRICT COUNCIL

IN THE MATTER of Section 88 of the Resource Management Act 1991

AND

IN THE MATTER of a Plan Change to rezone an area of 113.6Ha from Rural Outer Plains to Dairy Processing Management Area (Plan Change 43).

**STATEMENT OF EVIDENCE OF NICHOLAS PETER FULLER
ON BEHALF OF SELWYN DISTRICT COUNCIL**

3 NOVEMBER 2014

Introduction

- 1 My name is Nicholas Peter Fuller. I am a Senior Transport Engineer at Novo Group Limited, which is a specialist traffic engineering and planning consultancy that provides resource management related advice to local authorities and private clients. I have worked on resource management traffic planning and engineering projects for 13 years. My experience during this time includes development planning, preparing Traffic and Transport Assessments for resource consents, preparation of Project Feasibility and Scheme Assessment Reports for Council's and the NZ Transport Agency.
- 2 My qualifications include a Bachelor of Engineering (Honours) in Civil Engineering.
- 3 I have read the current Code of Conduct for Expert Witnesses as contained in the Environment Court Consolidated Practice Note (2011), and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

Executive Summary

- 4 I have reviewed the Transportation Assessment report (TA) prepared by Traffic Design Group on behalf of the applicant, as well as the proposed traffic related rules. As a summary, I consider that:
 - The proposed rules satisfactorily mitigate the potential traffic effects on the local road network in the immediate vicinity of the site;
 - A rule has been agreed between the applicant and the NZ Transport Agency that addresses potential safety and capacity issues at the SH1 / Old South Road intersection; and
 - There is more than sufficient space at the site to accommodate the anticipated parking demands.

The Proposal

- 5 The proposal has already been described by others. In brief, The TA sets out the proposal to rezone 113.6ha to enable:

- Up to eight dryers with associated drystores, reception, roading and servicing;
- Two primary access points on Heslerton Road and a requirement to upgrade Heslerton Road between the accesses;
- A secondary access to Irvines Road that will be used for emergency and temporary access only;
- The potential for a rail siding;
- Employment of approximately 594 staff; and
- Generation of around 1,776 vehicle movements per day, including 790 heavy vehicles.

Site Access Arrangements

- 6 It is proposed to retain the existing site access onto Heslerton Road, which will be a primary access to the site. An additional access to Heslerton Road is proposed onto Heslerton Road approximately 450m south of the existing access and this additional access will also be a primary access. The road between this and the existing access will be widened to accommodate the increase in traffic.
- 7 The traffic flows on Heslerton Road are identified as being predominantly associated with the Synlait operations. As such, the proposed accesses are anticipated to operate satisfactorily with the fully developed Plan Change.
- 8 A third site access is proposed, which will be to Irvines Road. This is described as being for emergency or temporary access only. Proposed rule 26.14 confirms the restrictions placed upon this access.

Car Parking

- 9 The parking demand has been estimated using existing data relating to staff numbers, which I consider to be a suitable method. This predicts a need for 400 spaces when the site is fully developed.
- 10 The size of the site is such that the area required for car parking can easily be accommodated. Therefore, we are satisfied that sufficient space will be provided on-site to avoid parking on the local road network. Similarly, we are satisfied that proposed rule 26.15 will result in a suitable car park design as it will meet the District Plan standards.

Traffic Effects

- 11 The traffic generation from the site has been based on surveyed data and forecast to reflect the proposed changes in capacity. These do not include the potential reduction in traffic generation that could be achieved with the potential rail siding. As such, I am satisfied that the assessment of traffic effects has been undertaken using suitably robust assumptions.
- 12 I consider the key issue in terms of traffic effects is the safety and efficiency of the SH1 / Old South Road intersection. I consider this is the appropriate location for assessing the traffic effects, as Old South Road at the intersection Heslerton Road appears to carry negligible traffic.
- 13 I understand that the NZ Transport Agency has agreed the wording of the proposed transport rules for the Plan Change with the Applicant. Given that they are the road controlling authority for that intersection, I see no need to comment further on this matter.

Rules

- 14 Proposed rule 26.13 sets out the requirements for access to the site, as well as improvements to the SH1 / Old South Road intersection. Part (a) of that rule concerns the State highway intersection and (as previously identified) I understand that the NZ Transport Agency has indicated their support with regards to that rule. Part (b) of the rule requires all accesses to the local roads to comply with the District Plan standards.
- 15 Rule 26.14 restricts the use of the secondary access (to Irvines Road) to farm activities, emergency and temporary access only. This confirms the intended use of this access as described in the TA.
- 16 Rules 26.15 and 26.16 have regard to parking provision and design. The design is required to meet the District Plan standards and parking is to be provided prior to the operation of the activities they serve, which I consider to be appropriate.
- 17 Rules 26.31 and 26.32 have regard to signage detail. This rule has regard to the size of lettering, visibility and spacing of signage. This rule is also consistent with the minimum requirements of the Traffic control devices manual Part 3, which covers advertising signs. I consider this rule to be

appropriate. I understand that the Applicant has agreed a revised wording for this rule with regards to signage that will be visible from the State highway.

- 18 Rule 26.32 requires a Construction Management Plan prior to undertaking construction of facilities that will increase the capacity for milk processing or storage on site. This includes a requirement for setting out construction traffic details to ensure that the adjoining and surrounding roads are disrupted as little as possible. I also consider this rule to be appropriate.
- 19 I consider the above rules to be sufficient to ensure that the traffic effects of the proposed development are consistent with the outcomes identified in the TA. Furthermore, a series of assessment matters are also included in the event that the proposed activities do not comply with the rules. I consider these matters to be reasonable and require assessment of the key effects.

Submissions

- 20 Two submissions have been made that have regard to traffic matters associated with the proposed Plan Change.

NZ Transport Agency - Signage

- 21 The first of submission is from the NZ Transport Agency, who support rules 23.13 and 26.14 regarding access provisions, but express concern regarding the signage rule (26.31). I understand that discussions have taken place between the Applicant and the NZ Transport Agency to agree a revised signage rule. As such, I consider this matter to be addressed.

Dairy Holdings Ltd – Access and Transport

- 22 This submission raised concern with regard to the potential adverse traffic effects initially at the SH1 / Old South Road intersection and then the potential effects this may have with regard to diverting traffic onto the surrounding road network. This concern arises as a result of the traffic analysis of the SH1 / Old South Road included in the TA. That report indicates that delays at the intersection for right turning traffic will be acceptable until between 2019 and 2024, at which point background traffic growth on SH1 will reduce the available gaps in traffic for trucks seeking to head east on SH1.

- 23 The mitigation to this potential congestion proposed by the Applicant is Rule 26.13, which requires the NZ Transport Agency's approval of intersection improvements prior to the issue of building consents that would increase the capacity for milk processing or storage at the site. This Rule has been endorsed by the NZ Transport Agency and, as they are the road controlling authority for this intersection, I'm satisfied that the mitigation proposed is sufficient and that undue delay should not occur, particularly to the extent that alternative routes become preferred.
- 24 It is my opinion that there is sufficient confidence provided by the proposed access rule that an intersection improvement will be required prior to significant adverse traffic effects arising relating to right turning traffic.
- 25 Furthermore, the alternative routes are of a lesser standard than the State highway and in particular the intersections, making journey times by these alternative routes typically longer than waiting at the SH1 / Old South Road intersection. In my opinion, delay at the SH1 / Main Rakaia Road intersection (west of the site) would likely take longer than waiting at the SH1 / Old South Road intersection because left turning traffic onto SH1 at the Old South Road intersection has the acceleration lane to assist turning, whereas much larger gaps in traffic would be required at the Main Rakai Road intersection because it doesn't provide such a facility.

Conclusion

- 26 I consider that the effects of additional traffic generated by the proposed Plan Change will be acceptable on the surrounding road network. There is sufficient confidence provided by the proposed rules that improvements will be required to the SH1 / Old South Road intersection at a point when they are required. Notably, the NZ Transport Agency have indicated their support of the proposed rules regarding the SH1 / Old South Road intersection and they are the road controlling authority for that location.
- 27 Proposed access arrangements will need to comply with District Plan standards, as will the proposed car park layout. Given the proposed traffic rules included for the Plan Change, I consider that the proposal can be supported from a traffic and transport perspective.

Attachment G Noise – Jeremy Trevanathan, Consultant Acoustic Engineer, Acoustic Engineering Services

Report Number: AC14034 – 01 – F1

Resource Management Act 1991, Partial Section 42A Report

**Review of Noise Assessment:
Plan Change 43
Synlait Milk Limited
Dairy Processing Management Area
Dunsandel, Canterbury**

As described in:

**Request for Private Plan Change
Submitted to the Selwyn District Council
By Synlait Milk Limited**

20 November 2014

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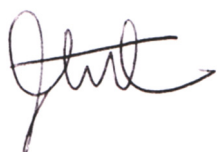
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**On behalf of Acoustic Engineering Services Limited
20 November 2014**

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1.0 THE APPLICATION AND PROPOSAL

- 1.1 Boffa Miskel Ltd on behalf of Synlait Milk Ltd (the applicant) has submitted a Request for Private Plan Change to the Selwyn District Council in May 2014 relating to the establishment of a Dairy Processing Management Area in Dunsandel, Canterbury. The intent of this proposal is to provide a framework for further development of the existing Synlait dairy plant and includes the establishment of a Noise Control Boundary to show the extent of associated noise effects.
- 1.2 I have read the Statutory Analysis and Evaluation Report titled *Request for Private Plan Change, Dairy Processing Management Area*, as prepared by Boffa Miskel and dated 16 May 2014, in particular those sections relating to environmental noise effects. It is my understanding that the following constitutes the entirety of the pertinent information relating to noise supplied by the applicant, being: Sections 5.14, 5.15, 5.22, 6.103-6.116 and Appendix 7 *Noise Assessment* prepared by Marshall Day Acoustics Limited (reference number Rp 002 R04 2013284c) dated 15 May 2014.
- 1.3 General details of Synlait Milk Ltd proposal can be found in the request for Private Plan Change, and are not reproduced here. I understand aspects of the application other than noise will be addressed in reports prepared by planning and other experts which, when viewed in conjunction with this report, will complete the section 42A report relating to the application.
- 1.4 I have previously been involved with the Stage 4 development of this Synlait site in a peer review capacity. In relation to the current proposal, I reviewed and provided initial comment on a draft noise assessment prepared by MDA and dated the 4th of April 2014. I also visited the site on the 4th of June 2014. I have not completed any noise measurements at the site, nor any detailed noise modelling or analysis. Accordingly, this report is based solely on the applicant documents, and my subjective observations from the site and surrounding area.

2.0 PROPOSED NOISE CONTROL BOUNDARY

Noise limits

- 2.1 The opening sections of the MDA report discuss the purpose and rationale behind the Plan Change and associated Noise Control Boundary (NCB). As described in section 2.3, a NCB is a common control measure to manage noise effects and reverse sensitivity from important infrastructure. While more common for airports and ports, I agree that this is an appropriate measure for a dairy processing plant, and there are cases in New Zealand where this approach has been adopted for similar operations.
- 2.2 It is proposed that the NCB is based on noise limits of 55 dB L_{Aeq} during the daytime and 45 dB L_{Aeq} during the night time. This is consistent with guidance for the protection of reasonable amenity in rural areas. In particular:
- The levels are comparable to the recommendations of NZS6802:2008 and World Health Organisation Guidelines.
 - The existing ambient noise generated by traffic on State Highway 1 appears to be greater than 45 dB L_{Aeq} even along the south-east boundary of the site based on previous MDA measurements.
 - The fact that I understand that case law indicates that the “existing environment” should be taken to include the current Synlait activities, and any effects associated with activities allowed by Resource Consents not yet implemented, but likely to be.
- 2.3 Based on the above, I conclude that the proposed noise limits will provide an adequate level of sleep and amenity protection for rural dwellings outside the proposed NCB and would be expected to have an adverse effect on the environment that is less than minor.

Boundary location and reverse sensitivity effects

- 2.4 To simplify and increase the accuracy of any noise monitoring undertaken in due course, MDA have defined the NCB envelope using publicly accessible land and straight lines where possible. In general I agree that this is a pragmatic approach.
- 2.5 I note that there are three areas of land contained within the proposed NCB which are not owned by Synlait. This includes a section of farmland to the west across Heslerton Road, a triangular section of land bounded by Main South Road, Old South Road and

Sharlands Road, and a section on the corner of Sharlands Road and Main South Road which contains an existing rural dwelling.

- 2.6 A control on any 'noise sensitive' activities within the NCB has been proposed in the form of a rule that requires an inside to outside reduction of 20 dB $D_{tr,2m,nTw}$ to any bedroom. While the term 'noise sensitive activity' is not explicitly defined, discussion in other sections of the report mentions development for residential use.
- 2.7 If such dwellings were constructed, MDA modelling indicates that predicted levels of up to 50 dB L_{Aeq} could be received by new dwellings constructed within the NCB. In order to achieve an internal noise level of 30 dB L_{Aeq} for sleeping areas, a 20 dB outside to inside noise reduction is necessary. I agree that an internal noise target of 30 dB L_{Aeq} is appropriate and will protect against sleep disturbance as it is consistent with the recommended satisfactory internal noise level for sleeping areas near major roads, as defined in AS/NZS 2107:2000 2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*. It is also consistent with World Health Organisation Guidelines as referenced by MDA.
- 2.8 Based on a study undertaken by G Bellhouse in 2000 titled *Testing of the sound insulation of the external envelope of six houses*, for typical New Zealand houses, an outside to inside level difference of 8 – 12 dB is achieved with windows wide open, 14 – 17 dB with windows ajar and 23 – 28 dB with windows closed with road traffic as the source.
- 2.9 On this basis, I agree with the MDA comment that the proposed reduction of 20 dB $D_{tr,2m,nTw}$ is not particularly onerous, and that a typical modern dwelling will achieve an outside to inside reduction of 20 dB with windows closed and a mechanical ventilation system installed.
- 2.10 I do note that a mechanical ventilation system would not be the only option for achieving acceptable internal levels within any new dwelling. Lower noise levels will be received on the side of the dwelling facing away from the Synlait plant, and if bedrooms are located on this side of the dwelling, internal noise levels may be lower than 30 dB L_{Aeq} without the need for a mechanical ventilation system. The proposed rule does not include provision for such an approach, but presumably it would be reasonably straightforward to obtain a Resource Consent on this basis.
- 2.11 The noise effects on outdoor living areas of any possible future dwelling have not been discussed. My view is that if noise levels remain below 50 dB L_{Aeq} as predicted, then this will be acceptable. 50 dB L_{Aeq} is the threshold outlined in the World Health Organisation Guidelines to protect against moderate annoyance during the daytime and evening periods for outdoor living areas.

- 2.12 When considering all of the above, I agree that the proposed controls are appropriate to control reverse sensitivity effects for any potential future dwellings within the NCB.

Existing dwelling within the Noise Control Boundary

- 2.13 As mentioned previously, there is an existing dwelling located within the NCB at 6 Sharlands Road. MDA briefly discuss the magnitude of effects on this dwelling, stating that there will be some adverse effects at night time with noise levels of up to 50 dB L_{Aeq} . MDA comment that the dwelling will already be exposed to high levels of traffic noise given its proximity to the State Highway, and that any additional sleep disturbance effects may actually be minimal.
- 2.14 While I generally agree with these comments, no information regarding the actual current noise levels at this dwelling, or consistency of traffic during the night-time period has been presented. Given that the existing ambient noise has been used as justification, I would expect to see details of this presented. There is also no comment on the magnitude of effects. When considering that predicted noise levels are above the proposed 45 dB L_{Aeq} night time limit, which MDA have suggested is 'consistent with good residential amenity in a rural area', I conclude that noise effects for this dwelling could be at least minor, and may be more than minor.

Threshold for acoustic assessment and Noise Management Plan

- 2.15 It is proposed that if any proposed development of the site will include any "...additional processing or storage capacity..." then a noise assessment will be required to ensure compliance. While the intent of this threshold is discussed in some detail in the MDA report, I have some concern that the wording is quite specific and may exclude other noise sources at the site (for example increased transportation noise).
- 2.16 At the end of section 3.4, the MDA report discusses that a "...combination of monitoring of existing noise levels and detailed modelling of proposed noise sources..." will be required to provide confirmation that the site will continue to comply. I agree, however note there is no requirement outlined in the proposed rules framework that will require ongoing monitoring.
- 2.17 It is implied that noise monitoring requirements will be addressed in the Noise Management Plan (NMP) to allow flexibility and 'responsive management'. While I appreciate that noise monitoring locations and methods will likely change as the site develops, it is my opinion a more detailed presentation of what was likely to be required for each stage of the development would be helpful at this stage, so it can be better understood whether any of this additional detail should be formalised as part of the rules framework (in particular, proposed Rule 26.19).

2.18 MDA has also outlined several additional points which would typically be incorporated into a NMP including complaints procedures, specific noise conditions and annual review. I agree that the use of a NMP is appropriate mechanism to manage noise emissions from the site, and that an effective NMP should include these aspects.

3.0 NOISE CONTOURS

- 3.1 A model of the worst case noise emissions expected from the site has been prepared by MDA in order to confirm that compliance with the proposed noise limits can be achieved. The noise sources proposed appear consistent with the worst case scale of development outlined in the Plan Change application, and the predicted noise levels appear reasonable.
- 3.2 I note that the proposed noise rules include an exemption for rail movements from the site. The primary reasons identified by MDA for this exemption are the intermittent nature of rail noise and difficulty of noise monitoring to confirm compliance or otherwise. Section 4.6 of the MDA report provides an assessment of, and discusses the effects, of rail noise.
- 3.3 The assessment primarily focusses on the proximity of the rail to the existing State Highway, and minimal expected movements to the site. I agree that these are significant mitigating factors. However I have some concern regarding the noise levels predicted by MDA. In particular, the assessment lists the entry and exit points of the siding being at opposite ends of the site and well removed from existing dwellings.
- 3.4 The 'indicative path' of the possible rail siding shown on the ODP appears unrealistic with the rail travelling perpendicular to the bund and therefore requiring a very limited 'hole' in the bund. However a rail siding would actually leave the main line at an acute angle, and this may require a very large section of bund to be removed at each end. From reviewing how actual sidings work, it appears the gaps required could be anything from 30 metres to 100+ metres at each end.
- 3.5 If the junction points with the main rail line remain the same and a larger hole in the bund is required, then the noisiest points of the shunting operation may actually end up closer to the existing dwelling at 6 Sharlands Road.
- 3.6 It is also unclear how general noise from the operation has been considered. Figure 3 for example shows the predicted future night-time noise levels coming very close to the Noise Control Boundary towards the western end of the siding. If there is a larger hole in the bund then has been modelled, it is unclear how compliance would be affected.

4.0 REVIEW OF SUBMISSIONS

- 4.1 Six submissions were received in response to the application, with only one raising noise issues. This submitter (Hindin / Wan) owns the land located a triangular section of land bounded by Main South Road, Old South Road and Sharlands Road (RS14478), which is located entirely within the proposed NCB.
- 4.2 Hindin / Wan oppose the proposed Noise Control Boundary noting that the location of the boundary will trigger compliance with the proposed rule outlining the required level of noise insulation for any future dwellings on the site.
- 4.3 The submitter comments that the noise emitter should be responsible for the control of noise from their site to ensure that “...*the noise does not exceed the limits appropriate to the area at the boundary of the property owned by the noise generating company*”. I note that this is not the format of the District Plan rules for this zoning, which instead apply at the *notional boundary* of any dwelling (being 20 metres from any dwelling). As there is currently no dwelling which exists on the site, there are technically no noise limits which apply at this site.
- 4.4 I also note that the extent of the 45 dB L_{Aeq} in the ‘worst case’ noise contour is not substantially different from the level of noise which can be generated under the existing consent at this site (being a limit of 50 dB L_{10} on the boundary of the submitters site).
- 4.5 The submitter also notes that if the company were to manage their emissions to comply with the District Plan limits, there would be no reverse sensitivity. I note that this does not align with the general principles of the RMA which is not to eliminate adverse effects entirely, but instead to minimise effects on the environment using practicable methods.
- 4.6 Hindin / Wan also have raised concern that the Synlait milk plant has been compared to an ‘airport or similar noise generating operation’. Although more common for airports, the use of a Noise Control Boundary has been adopted for other dairy processing plants around New Zealand. I consider an NCB to be a reasonable approach for this type of activity.
- 4.7 Hindin / Wan have proposed an alternative NCB envelope. Instead of following the road as a boundary the envelope would follow the predicted MDA contour. The NCB would therefore not envelop the entirety of the submitters property, enabling development of the northern corner of the site without a requirement for any acoustic mitigation. I accept the submitters reasoning that this would more accurately reflect the predicted noise effects on the property and would be a pragmatic solution.

- 4.8 On the 17th of November 2014 my office received via email from Ms Rykers of Boffa Miskell via Ms Foote of RMG a drawing entitled *Draft Outline Development Plan Revision 7* dated 23 October 2014 which showed an alternative NCB location which appeared to have been modified in line with the submitters proposition.

5.0 RECOMMENDATIONS

- 5.1 Based on the analysis presented above, I agree that the implementation of a Noise Control Boundary is appropriate for this site, and that the proposed noise rules are reasonable. I am therefore satisfied that potential noise effects associated with the proposed activity will be less than minor for any dwellings located outside the proposed Noise Control Boundary.
- 5.2 Generally I agree that the proposed reverse sensitivity control for dwellings located within the NCB is appropriate to protect against reverse sensitivity effects.
- 5.3 For the existing dwelling at 6 Sharlands Road located within the Noise Control Boundary, noise levels of up to 50 dB L_{Aeq} are predicted during the night time period. Since limited objective data has been presented regarding the existing traffic noise levels during the night-time period, I consider the effects on this dwelling could be at least minor and may be more than minor.
- 5.4 I have some concerns about the rail noise predictions, primarily that the indicative path of the proposed rail siding appears unrealistic. Given that rail noise is exempt from the proposed noise rules, I recommend that further detail is provided regarding the implications of a revised bund / rail layout, particularly on noise levels expected at 6 Sharlands Road.
- 5.5 I agree that the revised contour outlined in the Hinden / Wan submission more closely reflects the predicted noise effects on relevant properties, and would be a pragmatic solution.

Peer Review of Economic Impact of Synlait Plant and Future Development (May 2014 – Simon Harris)

Peer Reviewer: Geoff Butcher; Butcher Partners Ltd

Review Date: 29 May 2014

Introduction

I have been asked by Selwyn District Council to undertake a peer review of the above report by Simon Harris. I note that Mr Harris has addressed primarily the economic impacts of the project, and I have assessed his report on that basis.

Mr Harris also comments on the benefits to both farmers and efficient processing of having a competitive market in milk processing (see page 3 of his report), and I agree with his arguments in that regard.

There are other important economic issues associated with the location of a milk processing plant and efficient use of resources which Mr Harris does not address, presumably because he was not asked to do so. These may also be considered relevant under the RMA in deciding whether expansion of the Synlait plant is the most efficient way of processing additional milk produced in Canterbury.¹

Assessment of Direct Impacts of Milk Processing.

In his text Mr Harris refers to 50 million tonnes of milk solids being processed, but he has now confirmed that the correct figure is 50,000 tonnes. I understand that this does not affect his assessment of the value of direct output of \$420 million per annum in Table 3.

To assess total regional economic impacts of the milk processing plant, Mr Harris has applied multipliers which I calculated for Westland Milk Products proposed expansion at I-Zone in Rolleston, and produced in evidence for that company. I agree that these are appropriate multipliers for Mr Harris to use, and I confirm that he has applied them appropriately to the direct output figure he has used. It follows that the estimated total regional economic impacts of the Synlait plant (bottom half of Table 3) are realistic provided that the direct output figure is correct.

I agree with Mr Harris (top of page 7) that these economic impacts are not equivalent to the net benefit or to societal welfare increases because of the opportunity cost associated with the capital and labour involved in producing these impacts.

¹ Considerations might include whether the location minimizes transport costs both for both inputs and employees, scale efficiencies associated with fewer larger plants, landscape effects, etc. A counter-argument is that if Synlait is not an efficient Producer, then regardless of whether milk processing is a permitted activity at the site it will not occur because it is not commercially viable.

Assessment of Economic Impacts of Dairy Farming

The comparative impacts per Ha of dairy farming and sheep and beef farming reported by Mr Harris (foot of page 5) are realistic. As he correctly points out, the much higher employment and value added per Ha of dairy farming are only achieved with significant additional impacts of capital, labour and irrigation. Dairy farming may also have significantly different environmental effects to sheep and beef farming. All these factors mean that the additional value added per Ha of dairy farming is not a pure benefit.

On page 7, Mr Harris notes that the economic impacts of milk processing exclude the economic impacts of dairy farming, and I agree with that statement. His text confuses the economic impacts of dairy farming (table 5) with the impacts of construction (table 4).

I believe that although his Table 5 estimates of the direct value added associated with dairy farming are realistic, his estimates of household income from dairy farming are unrealistically high. I would expect the total regional impacts to be about three quarters of what he has indicated.

Summary

It is my opinion that, aside from some typographical and textual errors, the report is a realistic and accurate assessment of the economic impacts of milk processing at the Synlait plant (assuming the direct output of the plant is accurate). The economic impacts of dairy farming are also realistic, apart from the level of earned household income which in my opinion is over-stated. I note that while dairy farming cannot expand unless milk processing expands, this does not imply that the expansion of Synlait is necessary or even sufficient to generate an expansion of dairy farming.

Recent declines in the prices for milk products are unlikely to change the estimates of economic impacts. This is because the principal effect of lower product prices is likely to be a reduction in the price paid to farmers for milk solids rather than a reduction in the returns to processing and the associated economic impacts.

Geoffrey Butcher

29 May 2014

Melanie Foote

From: Russell Malthus - Novo Group <russell@novogroup.co.nz>
Sent: Wednesday, 4 June 2014 3:20 p.m.
To: Ewan Chapman
Cc: Melanie Foote
Subject: RE: HSNO and lighting issues Synlait plan change [DC-Documents.FID1481217]
Attachments: guidance-notes-light-pollution-2011.pdf; AS 4282 excerpt re German study.JPG

Hi Ewan

It was good talking to you earlier, and thanks very much for your message.

Hazardous substances

I wasn't so much worried that hazardous substances unrelated to Synlait might be stored, it was more about there being realistic baseline quantities in the HSMP for future reference. I am happy to accept the quantities from current consents as the baseline – could you please include the SDC or ECan reference numbers for reference?

Lighting

I've attached the ILP lighting guide for your reference. Tables 1 and 2 recommend a limit of 1 lux into windows in E2 environmental zones (i.e. rural) during "post curfew" hours (i.e. post 2300 hrs: ref Table 2 footnote). I've also attached an excerpt from AS 4282 regarding the German survey which indicates levels as low as 1 lux are desirable – however I'm satisfied that compliance with the current 3 lux standard at any property would achieve 1 lux at any window, given the distances involved.

Also as discussed, the current and proposed rule don't control directional glare which may be distracting to motorists and also affect residents.

On that basis I suggest proposed rule should be amended to read:

26.21 Any lighting within the Dairy Processing Management Area shall be a permitted activity provided that:

- a) Light spill from any activity does not exceed 3 lux on any adjoining property or on any road reserve; and*
- b) All exterior lighting is directed away from adjacent properties and roads; and*
- Section 6.143 includes a mitigation measure for lighting: "Ensure that Rule 26.21 is written to identify and enable light suppression techniques to minimise impact on landscape and views." It is not clear how the current rule addresses the concerns identified in section 6.138 of the AEE states "Runanga policy is to support the use of light suppression or limitation measures as a means to reduce light pollution and enable stars and landmarks to be viewed at night".

I look forward to receiving the cultural impact assessment with regard to the Runanga's concerns.

Regards

Russell Malthus | Senior Environmental Health Consultant
Novo Group - Planning | Traffic | Environmental Health
ddi: 03 365 5595 | mobile: 027 242 5574 | www.novogroup.co.nz |
10 Bishop Street, St Albans | PO Box 38 123 | Christchurch 8842

From: Ewan Chapman [<mailto:ewan.chapman@duncancotterill.com>]
Sent: Wednesday, 4 June 2014 11:55 a.m.

To: Russell Malthus - Novo Group

Subject: HSNO and lighting issues Synlait plan change [DC-Documents.FID1481217]

Dear Russell here is my email address.

As discussed, I will email you the "consented baseline" for the storage of hazardous substances - which will form the baseline of the Management Plan on this issue. I do believe that the framework of the DPMA as a dairy processing zone will mitigate and give the council controls to make sure that Synlait are not storing hazardous substances that are unrelated to its activities on site.

The types of chemicals to date have been well identified with full compliance with HZNO procedures and storage requirements.

Secondly I have discussed with you, given the separation distances operating at the site, that you may wish to give thought to amending the 1 lux criterion. Could you please send me the relevant extracts from the British or German standard that you have suggested ought to and has been applied in similar rural zone activities.

The issues relating to the Rununga will form part of the cultural impact assessment that is being worked on in conjunction with Taumutu

Regards

Ewan Chapman
Partner

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Attachment J Officers proposed amendments to Appendix 26

PROPOSED DAIRY PROCESSING MANAGEMENT AREA

PRIVATELY REQUESTED CHANGE

SELWYN DISTRICT PLAN (RURAL VOLUME)

INTRODUCTION

The following instructions explain the proposed amendments to the District Plan rules.

An amendment to an existing policy or rule is shown as bold and underlined, and where appropriate is shown within the operative text. Deletions are shown crossed through in track change.

Council officer modifications are shown in bold red underline. Deletions are shown as strikethrough in ~~red~~.

The insertion of a new Appendix is not shown with bold and underlining, as the entire Appendix is new to the Operative Plan.

AMENDMENTS – ISSUES, OBJECTIVES AND POLICIES

- 1 Amend **A4.5 The Rural Area and Zones, The Plains** by adding the following new paragraphs as shown in bold and underlined to the end of the section:

A further resource management issue in the Outer Plains is related to the growth in the dairy industry and the need to provide for the efficient processing of milk and its by-products. Milk processing facilities have been established and these are at a scale that is economic and optimal relative to the level of milk production within the district and region. Accordingly the density of built development at these sites is much greater than occurs on individual farms and the nature of the processing activity means they are industrial in character. Without appropriate mitigation this may affect rural amenity and landscape as well as traffic efficiency and safety.

These issues are addressed in Part B, Section 3.4 of the Plan.
- 2 Amend **A4.5 The Rural Area and Zones, Use of Zones** by adding the following new wording into the first sentence as shown in bold and underlined:

“There is only one zone in the rural area, though the zone is split into areas to manage specific activities, for example subdivision and residential density, **dairy processing activities and buildings**, plantations and outstanding landscapes.”
- 3 Amend **B3.4 Quality of the Environment – Issues, Amenity Values/Rural Character** by adding the following new text to the second bullet point in the fourth paragraph as shown in bold and underlined below:

“- People carrying out farming and other business activities may share some of these values. They also perceive the rural area as a business area and expect to be able to carry out existing activities, adopt new technology and practices; and to diversify activities as markets change. **The rural economy is dependent on facilities and**

businesses that process and add value to rural products. Established dairy processing facilities, while servicing the wider district or region also enable on-farm growth and diversification.

- 4 Amend **B3.4 Quality of the Environment – Issues, Amenity Values/Rural Character** by adding the following new text to the end of the last paragraph as shown in bold and underlined below:

“The Council believes these effects.....The Rural zone is principally a business area and the policies and rules are designed to allow people to undertake farming and other business activities relatively freely. **In addition, the policies and rules acknowledge sites established for dairy processing activities and provides for the continued development of these sites for dairy processing activities only within the Rural Outer Plains.**”

- 5 Amend **B3.4 Quality of the Environment – Objectives, Explanation and Reasons** by adding the following new text to the second paragraph, third bullet point as shown in bold and underlined below:

“Objective B3.4.2 recognises the Rural zone as an area where a variety of activities take place:

- All sorts of primary production
- Outdoor recreation
- A variety of business activities
- **Processing of milk to dairy products on established plant sites**”

- 6 Amend **Policy B3.4.3** by adding the following new wording to the second paragraph and also adding new wording to the **Method** for **Policy B3.4.3** as shown in bold and underlined:

“Policy B3.4.3 requires adverse effects from activities on the amenity values of rural areas generally be mitigated. **This may be achieved through compliance with rules, conditions on resource consents or through an ODP controlling further development on established sites such as those applied to the existing sites of milk processing.....**”.

“**Method**

- District Plan Rules
- Discretionary activities
- **Dairy Processing Management Area**”

- 7 Amend **Policy B3.4.4, Explanation and Reasons** by adding the following new wording to the third paragraph as shown in bold and underlined:

“However, the potential adverse effects of rural-based industrial activities that are of a size and scale beyond that which is permitted by the District Plan may be avoided by locating in a Business 2 Zone or in the Rural (Outer Plains) Zone where larger allotment sizes and lower population densities provide greater opportunity for internalising adverse effects.

Provision is also made for Dairy Processing Management Areas. This is an overlay within the Rural Outer Plains that applies to existing and established dairy processing facilities. Dairy processing facilities can be anticipated within, and form part of a

cohesive rural character in the Rural Outer Plains and the Management Area limits activities to those associated with a dairy processing plant and manages the scale of development through the use of an Outline Development Plan (ODP) and a specific set of rules. Accordingly, the DPMA enables economic efficiency to be achieved whilst ensuring the integrated management of effects at the boundary with the rural area, avoiding effects on the rural character and amenity values of the Outer Plains. The smaller allotment size and higher population density of the Rural”.

- 8 Add a new **Policy B3.4.5, Explanation and Reasons and Methods** as follows and renumber all subsequent policies and references to Policy B3.4.5 accordingly.

Policy B3.4.5

Enable the continued and enhanced efficient administration, processing, packaging and distribution of milk and dairy products on established dairy plant sites, within specifically identified Dairy Processing Management Areas within the Rural (Outer Plains) Zone, whilst ensuring the integrated management of effects on the environment at the boundary of the Management Areas through ODPs. **The establishment of non-dairy processing related industrial activities shall be avoided.**

Explanation and reasons

Policy B3.4.5 provides the basis for the rules controlling the use and development of land within Dairy Processing Management Areas. The buildings associated with the processing of milk and dairy products, along with the buildings required for storage and distribution, are very large and industrial in appearance. The scale and concentration of this built development exceeds that anticipated on a working farm however the processing of milk and dairy products is directly related to rural production and there are significant economic and operational benefits from enabling milk and dairy processing facilities within the Rural Area. Whilst the Policy is providing for a concentration of buildings, including very tall buildings, and activities, it is appropriate that the District Plan sets development standards beyond which new development will require a resource consent.

This policy is intentionally limited to sites of established Dairy Processing facilities as at 2013 and is not intended to provide a policy basis for new sites, or other types of rural industrial activities to be established in the Rural Outer Plains.

This policy is also limited to enabling the establishment of dairy processing related activities only within the DPMA. Other non-dairy processing related industrial activities shall be avoided as these activities are more appropriately located in other zoned areas within the district.

Underpinning Dairy Processing Management Areas is a requirement to comply with an ODP. The ODP represents a comprehensive approach to landuse and development, controlling the overall layout of development. The proposed rules specific to the Dairy Processing Management Area are to be read in conjunction with the ODP. While the scale and density of development is greater than elsewhere in the Rural Area, this reflects the already established scale of dairying within the District and the ODP provides certainty for the community and the landowner on the pattern of future development for the processing of milk and dairy products.

Methods

- District Plan Rules
- Dairy Processing Management Area
- Outline Development Plan

- 9 Amend (the now re-numbered) **Policy B3.4.5** (now **Policy B3.4.6**) by adding the following new wording, as shown in bold and underlined (deletions in track change) to the following paragraphs under the **Explanation and Reasons**:

(a) The end of the first paragraph:

“One of the most predominant characteristics of the Rural zone is the low level of building density compared with townships; and the land uses which this allows. The density of buildings, generally and houses in particular, varies throughout the Rural zone. In most areas, it is much lower than the density in townships, although there are specific locations such as the Dairy Processing Management Areas which recognise the existing higher density of development.”

(b) The end of the third paragraph:

“Policy B3.4.6 and the District plan rules manage the ratio.....Similarly, the rule does not apply to buildings in the Dairy Processing Management Areas which provide for a concentration of large buildings for processing, packaging and distribution of milk and dairy products only.”

- 10 Amend (the now re-numbered) **Policy B3.4.6** (now **Policy B3.4.7**) by adding the following new wording, as shown in bold and underlined (deletions in track change) to the end of the first paragraph under the **Explanation and Reasons**.

“Policy B3.4.7 addresses two potential adverse effects of buildings.....Some multi-storey development is anticipated as capable of being absorbed within the dominating mountain landscape. An exemption is also made for buildings essential for the processing, packaging and distribution of milk and dairy products, related by-products and waste materials. The scale of dairy production requires large facilities and a Dairy Processing Management Area has been created to recognise sites already established as dairy factories and to enable efficiencies in the dairy industry to be achieved.”

- 11 Add the following new matter under **Part B Quality of the Environment – Anticipated Environmental Results** as shown below:

- Existing sites for processing, packaging and distribution of milk and dairy by-products are specifically identified and managed.

Definitions

“ **DPMA**” Ancillary activities: any activity that is incidental to a permitted activity on the same site and which forms an inseparable part of the that permitted activity undertaken by Synlait.

AMENDMENTS – RULES

- 12 Amend **Part C, 3 Rural Rules – Buildings** by adding a new rule as shown in bold and underlined:
- 3.13.1.6 **In respect of the Dairy Processing Management Area, any sensitive activity within the Noise Control Boundary as shown in the Outline Development Plan in Appendix 26A shall be designed to achieve an outside to inside noise level difference of not less than 20 dB $D_{tr, 2m, nTw}$ to any bedroom. The design shall include a ventilation system that enables bedroom windows to remain closed. Except in the parts of any dwelling facing away from the Synlait Plant where internal noise levels may comply with the 30 dB L_{Aeq} without the need for mechanical ventilation in these specific areas.**
- The building design for a new sensitive activity shall be accompanied by a report (including calculations) from a suitably qualified acoustic consultant and submitted with the application for building consent.**
- Note:**
- This requirement can be achieved through adoption of modern residential construction materials in a building combined with the use of an alternative ventilation system that enables bedroom windows to remain closed.**
- 13 Amend **Part C, 3 Rural Rules – Buildings, Restricted Discretionary Activities – Buildings and Building Position** by adding the following 2 new clauses (and renumber the following clauses):
- 3.13.4 Any sensitive activity which does not comply with Rule 3.13.1.6 shall be a restricted discretionary activity.**
- 3.13.5 Under Rule 3.13.4 the Council shall restrict its discretion to consideration of:**
- 3.13.5.1 The ability to occupy and use a building for a sensitive activity with no mitigation and the potential effects on health and wellbeing.**
- 3.13.5.2 The nature of alternative of measures to avoid reverse sensitivity effects on the 24 hour operation of the DPMA.**
- 14 Insert the following new Appendix within Part E as Appendix 26.
- 15 Amend Planning Map 007, Sheets 1 and 2 by identifying the Dairy Processing Management Area as shown.

PART E

APPENDIX 26

26 DAIRY PROCESSING MANAGEMENT AREA

Note:

All activities within the Dairy Processing Management Area shall comply with the Rules in Appendix 26.

Rules in Part C, 1 to 10 of the Rural Volume of the District Plan shall not apply to activities within the Dairy Processing Management Area, except where expressly advised in the following Rules.

Permitted Activities – Land Use

26.1 The following activities shall be a permitted activity if all of the standards in Rules 26.2 to 26.32 are met:

- (a) The processing, testing, storage, handling, packaging and distribution of milk and dairy products, **dairy processing** related by-products, and ancillary activities, including but not limited to:
 - i. Rail infrastructure, and rail activities limited to those required for the transportation of milk, dairy products and associated ingredient and package products.
 - ii. Infrastructure for roading, rail, the management of wastewater, stormwater and the supply of water.
 - iii. Laboratories and facilities for research and development related to the processing of milk and development of dairy products.
 - iv. Offices and facilities required for the administration and management of the Dairy Processing Management Area, and the marketing, sales and distribution of milk and dairy products.
 - v. Activities which can comply as a permitted activity with the rules of the Rural (Outer Plains) Zone, except that any calculation of density or site coverage shall exclude the land within the Height Control Zone.

Note: For the purpose of interpreting Rule 26.1 the processing and use of milk is the purpose of, and principal use within, the Dairy Processing Management Area. **All permitted activities shall be undertaken by Synlait only.**

Comment [MF1]: Restriction to activities undertaken by Synlait has been recommended to ensure that other general industrial activities are not permitted occur and that activities are related to dairy processing.

Standards for Permitted Activities

Outline Development Plan

- 26.2 The location of all buildings, activities, landscape treatment, and vehicle access points to the Dairy Processing Management Area, shall be in general accordance with the Outline Development Plan in Appendix 26A.

Location of Buildings and Activities

- 26.3 All permitted activities shall be located within the Height Control Zone identified on the Outline Development Plan in Appendix 26A, with the exception of:
- (a) Any **directional** signage under **1.2** height;
 - (b) Infrastructure for roading, rail, the management of wastewater, stormwater and the supply of water associated with a permitted activity; and
 - (c) Permitted activities provided for in Rule 26.1(a)v.
- 26.4 Where located within the Rural Buffer Area buildings and activities provided for in Rule 26.3(b) and (c) shall comply with the height rules of the Rural (Outer Plains) Zone and either the setback rules of the Rural (Outer Plains) Zone or any setback shown on the Outline Development Plan in Appendix 26A, whichever is the greater setback from the boundary.

Landscape Planting

- 26.5 Landscape planting as shown on the Outline Development Plan in Appendix 26A shall be located in general accordance with the Outline Development Plan. ~~and is to be completed in accordance with the staging specified in Appendix 26A.~~ **All landscape planting listed as Stages A-F on the ODP – Landscape shall be implemented simultaneously prior to the construction of any new buildings which will increase the capacity for milk processing or storage within the areas identified as Stage 1 on the ODP.** This rule shall not apply to any planting for the purposes of amenity or enhancement within the Dairy Processing Management Area which is additional to the planting shown on the Outline Development Plan.
- 26.6 Prior to the issue of a building consent for new buildings which will increase capacity for milk processing or storage within the Dairy Processing Management Area, a landscape plan shall be submitted to the Selwyn District Council. The landscape plan shall detail the location of the planting, the plant species, the proposed timing of planting, the height and spacing of plants at the time of planting, and the maintenance regime of the landscape planting including soil and moisture retention, irrigation, access and the replacement of any dead, diseased or dying plants.

Building Height

- 26.7 Buildings within the Height Control Zone shall comply with the height limits shown in the Outline Development Plan in Appendix 26A. Up to 2 Boiler stacks and 4 exhaust vents per dryer shall be exempt from height limits.

Building Colour

- 26.8 Any building that has a finished height above 12 metres shall be finished in the following colours or equivalent colours, excluding trim, fittings, guttering, detailing and signage:
- (a) Colorcote "Kestrel"
 - (b) Titania
 - (c) Ironsand
 - (d) Grey Friars

Reference needs to be made to brand colour relates to i.e. Resene etc

Earthworks

26.9 Earthworks that do not exceed 5000m³ in volume for each stage of development.

- 26.10 The maximum cut/excavation depth of the earthworks from existing ground level shall be 5 metres and no closer than 1 metre to groundwater, whichever is the lesser.
- 26.11 The maximum height of temporary stockpiles or final landforms shall be no greater than 4m above ground level.
- 26.12 All cut material shall be reused within the Dairy Processing Management Area.

Access

- 26.13 Prior to the issue of a building consent for a new building which will increase capacity for milk processing or storage within the Dairy Processing Management Area:
- (a) The design of any access from the State Highway or the design of any State Highway/local road intersection, as shown on the Outline Development Plan in Appendix 26A, shall be approved in writing by the relevant Road and Rail (where applicable) controlling authorities. **A copy of this approval shall be forwarded to the Council Planning Manager for Council's records.**
- All access from a local road shall comply with the design requirements of Appendix 10.
- 26.14 Secondary access points shown on the Outline Development Plan in Appendix 26E shall only be used for farm activities, emergency access and situations where the primary access is made temporarily unavailable by emergency services, the road or rail controlling authorities.

Parking

- 26.15 All vehicle parking and manoeuvring areas shall be located as shown on the Outline Development Plan in Appendix 26A and comply with Appendix 10 as to layout and design.
- 26.16 Vehicle parking and manoeuvring associated with new buildings which will increase the capacity for milk processing or storage within the Dairy Processing Management Area shall be constructed, formed and sealed (with drainage) prior to use for operational activities.

Noise

26.17 Noise arising as a result of any activity within a Dairy Processing Management Area shall not exceed the following limits at the Noise Control Boundary shown on the Outline Development Plan in Appendix 26A.

- Daytime (7.30am – 8.00pm) 55dB L_{Aeq} and 80 dB L_{Amax}
- Night-time (8.00pm – 7.30am) 45 dB L_{Aeq} and 70 dB L_{Amax}

Noise shall be measured in accordance with NZS6801:2008 "Acoustics-Measurement of Environmental Sound", and assessed in accordance with NZS6802:2008 "Acoustics-Environmental Noise".

26.18 Prior to the issue of a building consent for new buildings **and associated outdoor loading and goods handling areas**, which will increase capacity for milk processing or storage within the Dairy Processing Management Area, a report from an acoustic engineer shall be received by council confirming all activities within the Dairy Processing Management Area will, cumulatively, meet the noise standards.

26.19 A Noise Management Plan for the Dairy Processing Management Area shall be submitted to the Selwyn District Council at least every 12 months and shall be up-dated to include any new activities or increase in milk processing or storage capacity within the Dairy Processing Management Area. The Noise Management Plan shall include best practice procedures to ensure compliance with noise standards, including noise monitoring requirements, annual reporting to the Selwyn District Council and a noise complaints procedure.

26.20 Noise monitoring shall be undertaken within 3 months of any new buildings which will increase the capacity for milk processing or storage within the Dairy Processing Management Area, becoming operational and shall be submitted as part of the Noise Management Plan.

Comment [MF2]: This has been added to address concerns by Mr Trevanathan and to ensure there is a formal requirement for noise monitoring as part of the rules framework.

26.21 Rail movements into, within and out of the Dairy Processing Management Area are excluded from compliance with the above rules.

Note: Rule 26.20 does not apply to the loading or unloading of goods.

Lighting

26.22 Any lighting within the Dairy Processing Management Area shall be a permitted activity provided that:

- a) Light spill from any activity does not exceed 3 lux on any adjoining property or any road reserve; and
- b) All exterior lighting is directed away from adjacent properties and roads.

Hazardous Substances

26.23 A Hazardous Substances Management Plan for the Dairy Processing Management Area shall be submitted to the Selwyn District Council. The Hazardous Substances Management Plan shall confirm compliance with the requirements of the Hazardous Substances and New

Organisms Act 1996, include an inventory of all hazardous substances stored on the site, emergency response and accidental spill procedures and annual reporting to the Selwyn District Council.

- 26.24 The Hazardous Substances Management Plan shall be updated and submitted to the Selwyn District Council at least 10 working days prior to the installation of the storage where there is:
- (a) An increase the volume of hazardous substance to be stored within the Dairy Processing Management Area from that provided for in the Management Plan previously submitted to the Selwyn District Council under Rule 26.23; and/or
 - (b) A new hazardous substance to be stored within the Dairy Processing Management Area not already identified in the Management Plan previously submitted to the Selwyn District Council under Rule 26.22.

Signage

- 26.25 All signage must be related to permitted activities undertaken on the site and be restricted to corporate logos or colours only.
- 26.26 The sign, unless it **is directional under 1.2m height, or a** temporary sign, is located entirely within the **Height Control Area** ~~Dairy Processing Management Area~~, and is not located on, or overhangs onto, any road reserve.
- 26.27 The sign is positioned so that it:
- (a) does not obstruct or impair the view for any motorist of any intersection or vehicle crossing; and
 - (b) is at right angles to the road frontage of the site but angled off the direction of traffic by 5 degrees.
- 26.28 The sign does not:
- (a) have flashing or revolving lights, sound effects, balloons or blimps or moving parts;
 - (b) resemble a traffic sign.
- 26.29 The height of the sign is not more than the height of the building and does not protrude beyond the framework of the building, to which it is attached; or 6m above the ground if the sign is not attached to a building.
- 26.30 The size of any freestanding sign is not more than 6m² and any sign attached to a building is not more than 50m².
- 26.40 The content of the sign shall be limited to the name of the dairy processing plant, wayfinding and compliance with statutory requirements.
- 26.41 The content of any sign fronting a State Highway and located at the entrance to the Dairy Processing Management Area shall comply with the following:
- (a) The sign has a maximum number of 5 words or a maximum combined number of 6 words and symbols;
 - (b) There is a minimum separation distance between any 2 outdoor signs of:

- (i) 70m, where the speed limit is 80km/hr; or
- (ii) 80m, where the speed limit is 100km/hr;
- (c) The sign is visible from a distance of:
 - (i) 175m, where the speed limit is 80km/hr; or
 - (ii) 250m where the speed limit is 100km/hr;
- (d) The sign has a minimum height for any letter which complies with the following values:

Speed Limit	Main Message	Secondary Message
80km/hr	250mm	125mm
100km/hr	300mm	150mm

Note: The above rules do not apply to any directional, warning or other required safety or information signs.

CONTROLLED ACTIVITIES

Earthworks

- 26.42 ~~All earthworks that~~ Where earthworks exceed 5000m³ (for any stage of development), shall be a controlled activity with Council reserving control over the following matters:

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~~all earthworks shall be undertaken in accordance with an Earthworks Management Plan approved by the Selwyn District Council at least 10 working days prior to the commencement of earthworks within the Dairy Processing Management Area. The Earthworks Management Plan shall include, but not be limited to:~~

- (a) Management of excavations in the proximity of surface waterways to avoid sedimentation, discharges and run-off entering waterbodies.
- (b) Management of dust emissions.
- (c) The location, size and dimensions of any temporarily stock-piled material and final landform features created by fill.
- (d) Re-vegetation of final surfaces.
- (e) An Accidental Discovery Protocol as specified in the Mahaanui Iwi Management Plan.

Note: ~~Where a Construction Management Plan is prepared in accordance with Rule 26.32 the matters specified above in matters (a) to (e) may be incorporated into the Construction Management Plan.~~

Construction Activities

- 26.43 ~~Any~~ At least 20 working days prior to the commencement of any construction works that will increase the capacity of milk processing or storage on-site shall be a controlled activity with Council reserving control over the following matters: a Construction Management Plan shall be submitted for approval to the Selwyn District Council. This Plan shall:

- a) ~~Ensure that~~ Effects of construction traffic and associated activities on roads and accessways, adjoining and surrounding the site are planned so as to cause as little disruption, delay or inconvenience on the adjoining road network.
- b) Specify best practicable measures to avoid or mitigate the dispersal and deposition of dust and sediment ;
- c) Specify best practicable measures to avoid the accidental discharge of any fuel or other hazardous substances, including measures for dealing with accidental spills.
- d) Ensure that construction noise shall comply with NZS6803:1999 Acoustics – Construction Noise;
- e) Ensure that construction vibration shall comply with NZS2631:1985-1989 Part 1-3 or equivalent standard;
- f) Ensure that accidental discoveries of items of cultural and/or heritage significance are managed in accordance with the Accidental Discovery Protocol in the Mahaanui Iwi Management Plan.

MATTERS OF CONTROL

- 26.44 Any activities which do not comply with the standards for Permitted Activities, and which are not listed as a **controlled**, discretionary or non-complying activity, shall be a restricted discretionary activity. The Council shall restrict its discretion to consideration of those matters as specified in respect of each rule:

(a) Outline Development Plan

Any building or activity which does not comply with the following rules as shown on the Outline Development Plan shall be a restricted discretionary activity and the Council shall restrict its discretion to consideration of those matters identified:

Rule 26A.1 Heselton Road Access

- The number and type of vehicle movements.
- The surface, width and condition of the road.

Rule 26A.2 Parking

- Any effects of vehicle movements associated with parking provided for within the Rural Buffer Area on rural amenity values and the reasonable use of adjoining land.

Rule 26A.3 Building Free Area

- The necessity and purpose of any structures to be located within the building free area.
- The scale and construction materials proposed for any building.
- The extent to which the proposed structure may affect the potential options for re-design and up-grading of the State Highway 1/Old South Road intersection.

(b) Location of Buildings and Activities

Any building or activity which does not comply with Rule 26.4 shall be a restricted discretionary activity and the Council shall restrict its discretion to consideration of:

- Any effects of an increase in building height or a reduced setback from internal and road boundaries on the rural amenity values in the locality and the reasonable use of adjoining land.
- Those matters specified for inclusion in Management Plans for Noise and Hazardous Substances.
- Note: Non-compliance with Rules 26.2 and/or 26.3 is a full discretionary activity. See Rule 26.34 below.

(c) Landscape

Any landscape planting which does not comply with Rules 26.5 or 26.6 shall be a restricted discretionary activity and the Council shall restrict its discretion to consideration of:

- The species, density and height of plants at the time of planting;
- The effectiveness of the proposed landscape planting to mitigate the adverse effects of proposed buildings and activities on landscape values in the locality of the Dairy Processing Management Area.

- Maintenance and ability of planting to establish and grow, including provision for access, methods of soil retention and irrigation.
- The use of landform to assist in mitigation of landscape effects.

Note: Amenity and enhancement planting within the DPMA is excluded from Rules 26.5 and 26.6.

(d) Building Height

Any building which does not comply with Rule 26.7 shall be a restricted discretionary activity and the Council shall restrict its discretion to consideration of:

- The individual and cumulative effect of additional building height on the landscape values in the locality of the Dairy Processing Management Area.
- The form and function of the over-height structure.
- The material and colour finish of the over-height structure.
- The effectiveness of any mitigation.

(e) Colour

Any building which does not comply with Rule 26.8 shall be a restricted discretionary activity and the Council shall restrict its discretion to consideration of:

- Alternative colour finishes and their effectiveness to address the visibility of the proposed structure individually and cumulatively within the Height Control Zone within the Dairy Processing Management Area.

(f) Earthworks

Any earthworks which do not comply with one or more of Rules 26.9 to 26.12 shall be a restricted discretionary activity and the Council shall restrict its discretion to consideration of:

- The control of sediment and dust.
- Stockpile and final landform location and dimensions.
- Potential for re-vegetation.
- The accidental discovery of items of cultural and/or heritage significance.
- Where cut material is to be removed from the Dairy Processing Management Area, the management of traffic effects created by the haulage activity.

(g) Access

Any access which does not comply with Rules 26.13 or 26.14 shall be a restricted discretionary activity and the Council shall restrict its discretion to consideration of:

- The effects of any access not shown on the Outline Development Plan in Appendix 26A, on the safety and efficiency of traffic on the road network.
- The safety of access to and from the State Highway, including the combined effect of the State Highway intersection and the site access where applicable.
- Intersection and road design.

(h) Parking

Any parking which does not comply with Rules 26.15 or 26.16 shall be a restricted discretionary activity and the Council shall restrict its discretion to consideration of:

- The effects of vehicle parking and manoeuvring not in accordance with the Outline Development Plan in Appendix 26A on rural landscape and amenity values.
- The effects of parking not designed to meet the standards of Appendix 10 on safety and efficiency of movement for vehicles and pedestrians within the DPMA.

(i) Noise

Any activity which does not comply with one or more of Rules 26.17 to 26.20 shall be a restricted discretionary activity and the Council shall restrict its discretion to consideration of:

- Effects on rural amenity values in the immediate proximity of the Dairy Processing Management Area.
- Effects on the liveability of any dwelling subject to increased noise effects.
- Measures for mitigation of noise effects.

(j) Lighting

Any activity which does not comply with Rule 26.21 shall be a restricted discretionary activity and the Council shall restrict its discretion to consideration of the effects of any additional light spill on:

- rural amenity values;
- the reasonable use of adjoining land or dwellings; and
- traffic safety on adjoining roads.

(k) Hazardous Substances

Any activity which does not comply with Rules 26.22 or 26.23 shall be a restricted discretionary activity and the Council shall restrict its discretion to consideration of:

- The volume of hazardous substance.
- Design of the storage facility.
- Emergency response and spill requirements.
- Monitoring and reporting.

(l) Signage

Any activity which does not comply with one or more of Rules 26.24 to 26.31 shall be a restricted discretionary activity and the Council shall restrict its discretion to consideration of the effects of any oversized or non-complying sign on:

- Traffic safety and efficiency; and
- Rural amenity values.

(m) Construction Activities

Any activity which does not comply with Rule 26.32 shall be a restricted discretionary activity and the Council shall restrict its discretion to consideration of:

- Traffic safety.
- Management of dust.
- Management of noise, including hours of activity.
- Management of vibration, including hours of activity.
- Protocols for accidental discovery for artefacts and sites of cultural and archaeological significance.
- Mitigation measures.

DISCRETIONARY ACTIVITIES

26.45 Buildings and activities not located in accordance with Rule 26.2 and/or 26.3 shall be a discretionary activity.

NON-COMPLYING ACTIVITIES

26.46 Any activity not provided for as a permitted, restricted discretionary or discretionary activity shall be a non-complying activity.

REASONS FOR RULES

Outline Development Plan, Buildings and Activities – Location and Height

The location of buildings and parking areas within the site and in relation to the site boundaries is controlled through compliance with an Outline Development Plan (ODP). This concentrates built development and dairy processing activities in the south west corner of the Management Area, reflecting the position of plant established through earlier resource consent processes and around which future buildings and activity are intended to grow.

Activities and buildings provided for in the Rural Buffer Area include those normally anticipated in the Rural Outer Plains Zone. In addition, **any low level directional signage** and infrastructure servicing the Dairy Processing Management Area (DPMA) such as road, rail, wastewater and stormwater utilities are enabled in the Rural Buffer Area. These are not activities involving significant built structures or intensive clustering of buildings, and are therefore considered appropriate in the Rural Buffer Area.

The setback of buildings from the state highway frontage has been influenced by the need to allow for a potential rail siding for trains to load/unload immediately adjacent to the drystores and to provide area for some landscape planting. To the north and south east built development is kept away from boundaries with a large area of rural open space providing an appropriate transition or buffer to the wider rural plains.

The ODP therefore effectively manages the extent of dairy processing activities within the DPMA. It is based upon what could be anticipated as a reasonable and optimal future development scenario and an assessment of the environmental effects of that development scenario.

The visual effects of full built development have been considered for the Management Area as a whole and addressed through a landscape plan. The scale and density of future development is integrated with this landscape treatment via the ODP providing a full overview of site development achievable over time.

Building heights are similarly controlled through the ODP. The rules acknowledge that dairy processing activities necessitate very tall built structures e.g., dryers and boiler stacks as well as very large, single span industrial buildings. Accordingly, there is provision for variable building heights, with the tallest elements purposefully located in a more central position within the area of building development.

Where activities are proposed which are compliant with the Rural Outer Plains rules, these are provided for throughout the DPMA (whereas dairy processing activities and buildings are more constrained). The rule requires that for the purpose of site coverage and density calculations, the area of land used for the basis of the calculation is limited to the Rural Buffer Area, ensuring that the Buffer retains a density of development consistent with the wider Rural Zone.

A Noise Control Boundary is shown on the ODP. This is complemented by a rule in Part C, 3 Rural Rules – Buildings which requires noise insulation to be incorporated within new buildings for sensitive activities. This provision is discussed further under Noise below.

A specific rule on the ODP requires the up-grading of Heselton Road prior to the commissioning of a second access. The rule ensures that the access to the plant is safe, efficient and fit for purpose. Further up-grading of the Old South Road and State Highway 1 intersection is similarly to be evaluated with substantive construction projects that increase the production and/or storage capability of the plant, to ensure that it remains safe. An area of land in the north west corner of the ODP is

shown as building-free. This requirement is to avoid any capital development in an area that ultimately could be required for accommodating an up-graded State Highway/Old South Road intersection. This is discussed further under Access below. Similarly, the ODP requires all vehicle parking to be provided within the Height Control Area. This is described further under Parking below.

Landscape Planting

Rule 26.5 requires all landscape planting to be generally in accordance with the landscape plan which forms part of the ODP and in accordance with the staging specified in Appendix 26A.

This plan must demonstrate general compliance with the staging of landscape establishment along with details of the plant species, location, timing of planting, height, spacing and maintenance. The purpose of this rule is to ensure that the Dairy Processing Management Area has a consistent landscape theme and that planting is appropriately established and cared for, ensuring its longevity and effectiveness.

Building Colour

All buildings over 12m in height are required to comply with a prescribed colour palette. This is to assist with addressing the visual effects of what are potentially substantive buildings with high visibility for a period of years. The intention is to maintain a consistency in the visual qualities of the site. The colour range is informed by the finish of buildings established through resource consents prior to the DPMA.

Earthworks

The rules provide for some small scaled earthworks (<5000m³) and stockpiling to be carried out as a permitted activity. These standards are consistent with those applied to earthworks in the wider Rural Outer Plains Zone. Where these standards are exceeded within the DPMA Rule 26.11 requires a a controlled activity consent is required. Earthworks Management Plan to be prepared and approved by Council prior to commencement of works. Council reserves control over a number of matters relating to The matters to be covered in the Management Plan are specified and relate to matters of potential environmental concern such as dust, proximity to waterways, re-vegetation and accidental discovery of archaeological items. Generally, it is acknowledged that earthworks, even at a larger scale, can be appropriately managed in accordance with best practice and conformity with regulatory requirements. In addition, the DPMA is an established and defined site which is well understood in terms of effective management from previous construction activity. However it is appropriate Accordingly, it is not essential to require a resource consent process to ensure appropriate management and environmental outcomes, which can be effectively achieved through a management plan.

Where material is to be transported off site however, a resource consent is required. This is specifically limited to the effects of haulage on the safety and efficiency of the road network, which may vary in effect depending on the volume of material to be transported and the particular route to be followed. This traffic effect is distinguishable from the earthwork activity itself where effects can be contained within the boundaries of the DPMA.

Access

The DPMA is a potentially significant traffic generator with a high proportion of heavy vehicles. Accordingly, it is appropriate that the access provision into and out of the site is controlled to avoid multiple entrance points which may potentially affect traffic safety and efficiency on the surrounding road network. Similarly, there is a requirement that with any significant new buildings which may increase processing or storage capacity, there must be consultation with the relevant road and/or rail authority. This provides a check point for assessing if a further up-grade of existing access points onto the State Highway or any State Highway/local road intersections servicing the DPMA are required. In respect of Synlait, the State Highway 1/Old South Road intersection is the primary point of access to the DPMA. Requiring the approval of the road and rail authorities will trigger a review of the safety of the intersection over time as traffic patterns change and the DPMA develops. The ODP requires that land between the plant and Heslerton Road is to be kept free of buildings to ensure that sufficient land is retained to accommodate any future State Highway intersection up-grades that may be required.

Identifying access points into the DPMA on the ODP provides certainty to road and rail controlling authorities as well as local road users. The access points identified on the ODP which are not already formed and operational will be required to comply with the District Plan standards for design. Prior to the commissioning of the second access on Heslerton Road, the ODP requires that a further length of road is up-graded to a standard for the anticipated traffic.

Parking

All vehicle parking (tankers, employees, visitors, suppliers and contractors) is required to be provided within the Building Height Control Area of the DPMA, where an intensification of built development and activity is anticipated. Directing parking to this location ensures that the dispersal or encroachment of car parking does not occur within the Rural Buffer Area which is intended to wrap around or buffer that part of the DPMA which is to be intensively used. The layout of the parking area is to comply with Appendix 10 of the Rural Volume of the District Plan, which sets out standard dimensions for car parks and best practice guidance on the relationship between parking, pedestrian and vehicle circulation areas.

Noise

The primary noise control for the DPMA requires compliance with a Noise Control Boundary. This is defined on the Outline Development Plan and Rule 26.17 specifies the daytime and night-time noise standards that will apply at this boundary. The Noise Control Boundary is derived from conditions imposed on resource consents that established the plant and represents a more strict noise standard than has been applied to the Rural Outer Plains. A Noise Control Boundary is commonly used around sites such as ports, airports and large, stand-alone plant. They provide a simple method for all parties to visualise the extent of noise effects.

To ensure that new development within the DPMA complies with the Noise Control Boundary, Rule 26.18 requires a report from an acoustic engineer to be submitted to Council prior to construction. This report is to confirm that the new development, in combination with all existing activities within the DPMA will continue to meet the prescribed standards. In addition, a Noise Management Plan is required to be submitted annually to incorporate new development and to demonstrate on-going commitment to the best practice management and monitoring of noise from the plant.

The Noise Control Boundary also triggers requirements for acoustic insulation to be built into new buildings for sensitive activities (see Part C, Rural Rules – Buildings, Rule 3.13.1.5). This requirement

acknowledges and responds to the importance of the plant to the community and the economy. Once a company has made a significant investment in plant, it is in the district's and the community's interests that this plant is able to operate with efficiency. Accordingly, it is appropriate to ensure that encroachment of sensitive activities does not curb the plant's operations.

The Noise Control Boundary and its associated noise standards are not intended to apply to rail movements into and out of the DPMA. The measurement of rail noise as a train moves from designated land onto a rail siding within the DPMA may be extremely difficult to differentiate and measure. Unexpected noises such as wheel squeal are maintenance issues and best addressed through a Management Plan approach. The activity of loading and unloading trains is required to comply with the Noise Control Boundary.

Lighting

The Height Control Area within the DPMA is potentially an area of intensive activity and concentrated built development. The plant operates on a 24 hour basis requiring lighting to be provided for illumination of access points, outdoor work spaces and for security. The limitations imposed on the measurement of lux and the direction of lighting are the primary mechanisms to avoid light spill and to minimise night-lighting effects.

Hazardous Substances

The DPMA involves the storage and use of a range of hazardous substances essential to dairy processing activities. Accordingly, the appropriate storage and use of hazardous substances is a fundamental activity within the management area and compliance with statutory and industry requirements is essential to the success of the dairy industry. In this context the strict regulatory controls which are imposed through mechanisms outside the District Plan result in the effective management of hazardous substances in accord with best practice and industry standards. Accordingly, the potential risk to surrounding landuses is effectively managed and environmental effects considered addressed appropriate management methods are implemented avoided, remedied or mitigated through the adoption of those standards.

Rules 26.22 and 26.23 put in place a process whereby the storage and use of hazardous substances in the DPMA is documented and Council is informed through a management plan. The plan is required to detail the range and volume of all hazardous substances stored and the emergency response and accidental spill procedures.

Signage

The rules relating to sign size are intended to provide for signs to be established which are scaled relative to the size of the plant and its function as a resource servicing a large catchment within the District. Further to the size of the sign, the balance of the rules are the same as those applied in the wider Rural Outer Plains Zone.

Construction Activities

Rule 26.32 provides a mechanism for further control over the management of large scaled construction works. The rule only applies to construction activities for buildings which increase milk

processing or storage capacity within the DPMA, and is intended to apply to proposals of the scale of a new dryer or drystore.

Due to the number of variables associated with construction and the desire to adopt industry best practice, a rule based on a standard measure or numerical threshold for management of construction effects is not applicable. The requirement for a controlled activity consent preparation and lodgement of a Management Plan prior to construction provides a mechanism is to ensure that there is a comprehensive and integrated plan for matters such as traffic management, dust control, compliance with the NZS standard for construction noise and vibration along with protocols for accidental discovery. This approach provides certainty to both Council and the applicant around timeframes. he flexibility to deal with a construction projects which are of larger scale and environmental effect.