
REPORT TO DISTRICT PLAN COMMITTEE

DATE: 22 August 2018

TOPIC: Dairy Processing Management Area

PREPARED BY: Vicki Barker, Consultant Planner

EXECUTIVE SUMMARY

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| <i>Purpose of Report</i> | <i>To provide the Committee with an update on the Dairy Processing Management Area Topic and Work Programme.</i> |
| <i>Recommended Action</i> | <i>Progress the Dairy Processing Management Area Topic and Work Programme as set out in this report.</i> <i>A further update is provided to DPC on the Dairy Processing Management Area in early 2019.</i> |
| <i>DPC Decision</i> | <i>“That the Committee notes the report.”</i> <i>“That the Committee endorses the approach to the ‘Dairy Processing Management Areas’ topic and indicative work programme outlined in Section 3.0 of the report for further development and engagement.”</i> |



1.0 Introduction

Synlait and Fonterra both have well-established dairy plants operating in Selwyn District in Dunsandel and Darfield respectively. The companies have jointly approached Council seeking changes to the Dairy Processing Management Area (DPMA) provisions as part of the District Plan Review process to improve the efficiency and effectiveness of the DPMA.

This report provides an update on progress with the DPMA topic, and describes:

- the current Selwyn District Plan DPMA provisions;
- the proposed management approach and a summary of the amendments being sought to the DPMA provisions;
- the engagement undertaken to date, and that proposed; and
- the anticipated forward work programme.

2.0 Current DPMA Provisions

Under the Operative Selwyn District Plan (the Plan) both sites are zoned Rural (Outer Plains). The Plan provides for these facilities by way of specific DPMA provisions contained in Appendix 26 (E26.1) which apply instead of the Rural Zone rules, except where expressly advised in the DPMA rules. Outline Development Plans (ODPs)¹ guide development within each site and include features such as a defined DPMA boundary, Rural Buffer Area, Height Control Area, Building Free Area, Noise Control Boundary, access points, landscaping areas etc. A copy of the DPMA provisions is attached as **Appendix 1**.

The plants were established by way of resource consent (Synlait in 2006 and Fonterra in 2010) and subsequent resource consents were sought for expansion. To better enable future development and provide the companies with greater development certainty, plan changes were sought to introduce the DPMA provisions. Synlait's Plan Change 43 was introduced in 2015 and Fonterra's Plan Change 50 shortly after in 2017.

There are no objectives and policies within the DPMA provisions in Appendix 26. Instead, the relevant objectives and policies are contained within the Rural Volume provisions (specifically Objective B3.4.2 and Policies B3.4.1 and B3.4.3-B3.4.5). Policy B3.4.5² specifically enables DPMA whilst managing effects at the boundary of the management areas through ODPs.

The DPMA provisions in Appendix 26 permit a number of land use activities related to the processing and use of milk, subject to a number of conditions or requirements being met. In summary these include:

- **ODP** - Development in general accordance with ODPs for each site;

¹ Contained in Appendix 26A (Synlait) and Appendix 26B (Fonterra).

² Policy B3.4.5 - Enable the continued and enhanced operation, innovation and development of established dairy plant sites for the purposes of administration, processing, testing, storage, handling, packaging and distribution of milk and dairy products, related by-products and ancillary activities 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.

- **Location of buildings and activities** - Permitting activities located within the Height Control Zone with some exceptions for more minor development, and buildings in the Rural Buffer Zone are to comply with height limits (as per rural zone) and setbacks;
- **Landscape Planting** - When new buildings are established which increase the capacity for milk processing or storage, landscaping is required in association with the Synlait ODP³. With respect to Fonterra, existing landscape planting shall be maintained and one area of future screen planting implemented within 12 months of the Central Plains Water canal becoming operational.
- **Building Height** - Buildings within the Height Control Zone are required to comply with height limits specified on the ODPs. Up to two boiler stacks and 4 exhaust vents per dryer are exempt from the height limits.
- **Building Colour** - Any building with a height greater than 12m is to be finished in particular colours specified in the provisions.
- **Earthworks** - A maximum volume of 5,000m³ of earthworks is permitted for each stage of development. The maximum cut depth is 5m and no closer than 1m to ground water, whichever is the lesser. Temporary stockpiles and final landforms shall be no higher than 4m above ground. All cut material is to be reused within the DPMA.
- **Access Design (and parking)** - Prior to the issue of Building Consent for any new building which increases the capacity for milk processing or storage, the design of any access from the State Highway (SH) and any SH/local road intersection shown on the ODPs shall be approved in writing by the road and rail controlling authorities. Access from a local road is to comply with the design requirements set out in the Transport rules (Appx 10). Secondary access points are only to be used for farm or emergency or temporary access. Parking is confined to areas on the ODPs and is to meet the Transport Chapter requirements with respect to layout and design.
- **Noise** - Both ODPs have a Noise Control Boundary at which limits of 55dB day time and 45dB night time must not be exceeded. These are shown on the ODPs in Appendices 26A and B but not on the Planning Maps. The 2008 NZ Standards are referenced for measuring and assessing noise. Rail movements are excluded from complying, provided that with respect to the Fonterra site that the number of night time rail movements does not exceed two per night.
- **Lighting** - Lighting is permitted where light spill does not exceed 3 lux on any adjoining property or road reserve, and all exterior lighting is directed away from adjacent properties and roads.
- **Signage** - Key rules include: signage must be related to permitted activities and restricted to corporate colours and logos; positioned so as not to obstruct motorists views of intersections or vehicle crossings; if attached to a building does not project above the building or is a maximum of 6m high if freestanding; no greater than 6m² if freestanding or 50m² if attached to a building; detailed provisions about the sign content; any new sign directed at the SH needs the approval of NZTA.

Rule 3.13.1.6 in the Rural zone rules also applies and requires that any new sensitive activity within the Noise Control Boundary is designed to achieve a specific noise level to any bedroom and a ventilation system that enables bedroom windows to remain closed. The building design needs to be accompanied by a report from a suitably qualified acoustic consultant and submitted with the

³ E26.1.5A refers to the Fonterra ODP in Appendix 26B however this provision should refer to the Synlait ODP in 26A and therefore is a referencing error.

application for building consent and the cost of the report is to be met by Fonterra (introduced by Plan Change 50 and does not apply to Synlait). The Plan states that this requirement is to ensure that encroachment of sensitive activities does not curb the plant's operations.

If the permitted activity conditions are not met, resource consent is required. Controlled activity consent is required for breaches of the landscape planting, earthworks and construction activities. All other breaches of the permitted activity conditions are restricted discretionary activities; with the exception of buildings and activities not located in accordance with the ODP or the Height Control Zone, which are a discretionary activity. Any activity not otherwise provided for is non-complying. The provisions also contain extensive 'reasons for the rules'.

3.0 Overview of changes sought

3.1 The Management Approach

Both companies are supportive of the existing management approach - specific DPMA provisions and ODPs which apply instead of the Rural Zone rules (except where expressly advised), and which sit in a separate section of the Plan. The companies are seeking rule amendments only to this existing approach. I consider there is no reason not to continue with this approach with amendments to the rules; however, how the approach is 'packaged' and presented in the Proposed Plan will be largely guided by the National Planning Standards.

The draft National Planning Standards released in June 2018 contain a range of land use management approaches. Those of particular relevance to DPMA which need to be considered include a 'Rural production zone', a 'Special purpose zone', and a 'Development area' approach.

(i) Rural production zone - The purpose of this zone is to "*prioritise primary production activities that rely on the productive nature of the soils, intensive primary production, and also providing for associated rural industry*".⁴ Each zone must include objectives, policies and methods including rules. This zone is distinct from the Rural zone which would apply more generally.

(ii) Special purpose zone - The Standards state that an additional Special purpose zone must only be created when the proposed land use activities and anticipated development within the defined area: are significant to the district or region; could not be enabled by any other zone; and could not be enabled by the introduction of an overlay, precinct, designation, development area, or specific control.

(iii) Development Area - A Development area spatially identifies and manages areas where conceptual plans such as outline development plans apply to determine future land use and/or development. Development areas must be provided as a different section of the chapter, have a unique name and include at least one objective and policy. The Standards also specify that when the development is completed the Development area section must be removed from the plan.

At this stage, a Special Purpose DPMA Zone would appear to be the best fit for both plants as the sites are significant to the district and region, would be less likely to be enabled by the Rural production zone,

⁴ Rural industry: means an industrial activity where the principal function supports primary production or aquaculture activities.

and the other key methods available are not as suitable; i.e. a Development area is a finite approach as it must be removed from the plan once development is completed, which would not be conducive to ongoing development and future certainty.

Both companies agree that the draft National Planning Standards do not specifically provide for rural industrial activities. The companies consider that such activities could be provided for through the creation of either a Special Purpose Zone or a Rural Industrial Zone. Submissions are currently being prepared on this basis.

3.2 Proposed amendments

The companies are continuing to work with Council regarding proposed amendments to the provisions and therefore the summary below represents an overview at this point in time and further amendment is expected to be required with respect to some provisions.

A summary of the proposed key amendments only is detailed below. There are a range of other more detailed minor amendments being sought to improve wording and correct errors.

| Provisions | Proposed change | Why change is being sought |
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| Objectives and Policies | Include specific stand-alone DPMA objectives and policies within the DPMA provisions. | <p>To improve the District Plan structure, have the objectives and policies in the DPMA provisions rather than the Rural zone.</p> <p>To replace the detailed explanation and reasons currently in the Plan.</p> <p>To provide increased specificity and guidance compared to Rural zone objectives and policies.</p> <p>To develop objectives and policies which better reflect the CRPS.</p> |
| Permitted activities | To provide for a wider range of infrastructure as permitted including sewerage, energy generation and car parking. | Greater clarity and to permit existing and necessary infrastructure development. For example, both plants have established energy infrastructure (boilers and substations). |
| Landscape Planting | Synlait - a new rule which requires one outstanding row of landscaping to be completed including specifics about the planting species etc. (taken from the ODP landscape plan | Synlait has completed all planting except for one internal row and a written rule would streamline the provisions as opposed to multiple landscape cross-sections needing to be attached. |

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| | <p>and cross-sections and translated into a written rule).</p> <p>Fonterra - remove the requirement for planting within 12 months of CPW becoming operational.</p> | <p>Fonterra has completed all planting and considers future planting in association with the CPW canal is no longer appropriate as the CPW canal (now a pipeline) through the site is no longer proceeding). Fonterra is currently working with CPW to determine future requirements for the designation over Fonterra land.</p> |
| Building Colour | To increase the height limit from 12m to 15m at which buildings need to be finished in specific colours. | 15m is currently applied in Industrial zones and is also considered appropriate given the setbacks and landscaping. |
| Earthworks | A replacement rule which seeks to permit earthworks and where earthworks exceed 5,000m ³ require a Construction Management Plan to be provided to Council. | <p>Excavation depth and groundwater is not considered an issue at either site.</p> <p>A resource consent process is duplicating the Building Consent process in some respects.</p> <p>Both companies have SDC approved Dust Management Plans.</p> |
| Traffic generation (to replace Access Design) | Delete the rule regarding access design (E26.1.13) and replace it with a new traffic generation rule which has a permitted activity threshold for new activity based on Heavy Goods Vehicle (HGV) movements (a draft rule is still being determined by both companies). | Both companies are working with Transport Engineers to develop a draft rule or separate rules for each site and justification for the change. |
| Parking | Delete the car parking rules. | Car parking is internal to the site and traffic and pedestrian safety are managed through Health & Safety regulations; No specified car parking area on the Fonterra ODP. |
| Noise | <p>Synlait - seeking an extension to the position of the Noise Control Boundary and additional noise insulation requirements in relation to sensitive activities.</p> <p>Fonterra - no change sought.</p> | To provide for noise from heavy traffic movements at the Synlait access and to ensure noise management is more effective relative to the scale of development anticipated at the site. |

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| Signage | <p>Delete restriction of permitted signage to corporate logo's or colours only.</p> <p>Delete the requirement that the content of the sign be limited to the name of the processing plant, wayfinding and compliance with statutory requirements.</p> <p>Delete the detailed restrictions regarding the content of signs facing local roads.</p> <p>Delete the need for any new sign directed at the SH to be approved by NZTA.</p> | <p>Unnecessary to restrict all signs to corporate colours, i.e. directional signs.</p> <p>Duplication in the rules and uncertainty and ambiguity in wording.</p> <p>Could cross-reference to signage chapter.</p> |
| Lighting | <p>No change sought but oppose the introduction of any new provisions relating to night glow.</p> | <p>Lighting at both sites has been designed and installed to comply with the spill light and glare permitted activity rules in Appendix 26 of the District Plan, while also meeting health and safety lighting obligations associated with sites that operates 24 hours a day. It is considered unnecessary to introduce new restrictions on lighting and night glow in relation to either plant.</p> |
| Activity status | <p>Seek to delete all controlled activities and revise the matters of discretion for restricted discretionary activities.</p> | <p>Relates to rule changes.</p> |
| Rule 3.13.1.6 | <p>Fonterra - Delete the need for Fonterra to meet the costs of an acoustic report and design.</p> <p>Synlait - Amendment to the rule to introduce additional noise insulation requirements in relation to sensitive activities (linked with the proposed changes to the noise contour).</p> <p>Both companies - Seeking that non-compliance with this rule be a non-complying activity.</p> | <p>Fonterra considers the provision to meet the costs of the acoustic report and design is not well justified and is not enforceable.</p> <p>The change sought by Synlait relates to the proposed extended noise contour boundary.</p> <p>The companies would like the district plan to strongly signal the necessity for noise insulation to avoid reverse sensitivity effects occurring.</p> |

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| ODPs and Planning Maps | Make ODPs more legible and update text. Show noise control boundaries on the planning maps. | ODPs are illegible and text will need to be updated to reflect changes to provisions and lack of clarity as noise control boundaries not shown on maps. Seeking that noise control boundaries to be displayed on the Planning Maps so clear to plan users without needing to refer to the ODPs. |
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3.0 Anticipated Work Programme

Council is continuing to work with both companies regarding the proposed amendments. The key matters where further information is required in order to progress the development of provisions includes: traffic generation/access design; noise; and earthworks.

An indicative work programme going forward is outlined below:

| Indicative Timing | Tasks |
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| August 2018 | <ul style="list-style-type: none"> - Synlait/Fonterra to provide revised suggested amendments based on discussions with Council to date; i.e. revised earthworks provisions. - Both companies have agreed to provide statements verifying that landscaping has been completed. - Landscape advice is to be provided to support the change sought to the building colour provision. - Council to discuss with the necessary parties; i.e. ECan with respect to earthworks and Council's acoustic consultant with respect to noise. |
| Sept-Nov 2018 | <ul style="list-style-type: none"> - Fonterra to carry out traffic counts to inform traffic generation provisions. - Council continues to work with companies on refining other provisions (as required). |
| Dec 2018-Jan 2019 | <ul style="list-style-type: none"> - Synlait/Fonterra to provide draft traffic generation rule(s) for Council's consideration, accompanied by traffic engineering advice. |

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| | <ul style="list-style-type: none"> - Council to consider draft provision(s) in conjunction with NZTA. - Liaise with companies to refine. |
| Feb-March 2019 | <ul style="list-style-type: none"> - Final draft provisions submitted by companies to Council. - Further update to DPC regarding traffic generation in particular and intended engagement. |
| March-April 2019 | <ul style="list-style-type: none"> - Targeted stakeholder engagement with adjoining landowners, NZTA, Kiwirail. |
| Remainder of 2019 | <ul style="list-style-type: none"> - Companies in liaison with Council to finalise draft provisions considering stakeholder feedback ready for public notification. - Finalise s32. |

4.0 Engagement

Discussions have been held with the Council's Transport Asset Manager, Consents Team Leader, and Monitoring and Compliance Manager to inform the assessment of the draft amendments sought to the provisions.

Initial discussions have also been held with ECan regarding the proposed earthworks provisions, potential overlaps with the regional rules and their general suitability, and with NZTA regarding the traffic generation and signage rules. This engagement will need to continue as provisions continue to be developed and refined.

It is proposed that once a final draft set of provisions is submitted by the companies that targeted stakeholder engagement occurs. There are adjoining land owners at both sites who will be interested in any amendments to the provisions and it is considered there is sufficient time to build in this engagement ahead of the provisions being publicly notified.

5.0 Recommendation to DPC

5.1 The following recommendations are made to the DPC:

1. That the above information is received and the general approach to this topic and the indicative work programme outlined in Section 3.0 is endorsed.
2. A further update to the DPC is provided in early 2019.

APPENDIX 1: DPMA Provisions