

30 November 2022

Matamata Piako District Council

PO Box 266

TE AROHA

Attention: Ally van Kuijk (AvanKuijk@mpdc.govt.nz)
Marius Rademeyer (roadhouse@outlook.co.nz)

Dear Ally/Marius

RE: Private Plan Change 55 – Development Concept Plan for Waitoa Dairy Manufacturing Site – Response to Further Information Request

I refer to your request for further information (“RFI”) dated 22 January 2021. Please note I am now assisting Fonterra with this plan change application (reporting to Suzanne O’Rourke (Fonterra National Environmental Policy Manager). We respond to each of the matters raised as follows.

ITEM 1 (NOISE FROM THE TRAIN WHEN ON SITE) & ITEM 2 (DCP NOISE RULES)

In terms of **Item 1 (Noise from the train when on site)** and **Item 2 (DCP Noise Rules)**, I have attached a Memorandum (dated 18 February 2021) from Damian Ellerton (Marshall Day Acoustics (“MDA”)) as **Appendix A** which addresses each of the matters raised by Neville Hegley.

The only matter not addressed in the MDA Memorandum is the following matter within **Item 2 (DCP Noise Rules)**:

Where there is no building platform outside the NECB on a vacant site or where a habitable room is added to an existing dwelling within the NECB, the cost of noise control treatment to comply with the DCP rules should fall on Fonterra not the property owner.

In the proposed noise conditions, within 6 months of the plan change becoming operative, Fonterra is required to offer an assessment of internal noise levels (within habitable rooms) to any owners of

buildings accommodating a noise sensitive activity. If the offer is accepted by the respective owner, Fonterra is then required to undertake the noise assessment at an agreed time (with any noise mitigation measures required to be installed within 6 months of the offer being accepted by the property owner or alternative agreed timeframe). It is noted that upon further consideration of the noise conditions, an amendment is proposed to condition 2(b) requiring Fonterra to undertake the noise assessment during the busiest period for the Waitoa Site (i.e. August – November) when associated noise will be at peak levels (refer **Appendix B**).

Otherwise, outside of the initial 6 month period, Fonterra is proposing a similar approach to that adopted in the District Plan in relation to the Matamata Airport (i.e. Rule 5.2.10) and State Highways and Railways (Rules 5.2.9 and 5.2.12) where any necessary noise mitigation measures are the responsibility of the property owner

Otherwise, the MDA Memorandum addresses each of the matters raised by Neville Hegley providing clear justification for the approach taken within the private plan change application.

In terms of the summary of Jaoa Paulo Silva's recommended changes to the proposed noise rules at the end of Item 2 (DCP Noise Rules), we have the following comments:

The term "habitable rooms" (defined in the Operative District Plan and NPS) rather than "habitable spaces" (not defined in the District Plan or NPS) should be used in the DCP rules. The DCP rules should preferably reference the NPS definition of "habitable rooms".

The use of the term "*habitable room*" as defined in the National Planning Standards (instead of "*habitable space*") is accepted as an appropriate amendment.

For clarity, the term "noise sensitive activity" rather than "sensitive activity" should be used in the DCP rules, to distinguish "noise sensitivity" from "reverse sensitivity".
The term "noise sensitive activity" should be defined in the DCP rules, by adopting the Waka Kotahi – NZTA definition.

Fonterra accepts that use of the Waka Kotahi definition for "*noise sensitive activity*" would provide greater certainty than the District Plan definition for "*sensitive activity*".

In the above regard, notwithstanding the expert advice and in the interests of consistency with the Tātua Plan Change, we are happy to discuss the merits of increasing the noise limit for other habitable rooms to 40 dB LAeq (in lieu of 35 dB LAeq as recommended in Attachment 1) for both existing and new dwellings/additions.

The MDA Memorandum confirms that their proposed noise limit for other habitable rooms is appropriate.

In light of the advice in the MDA Memorandum and the above comments, I have made a number of minor amendments to the proposed new noise rules (attached as **Appendix B**).

ITEM 3 – DCP FORMAT

Following recent discussions with Marius Rademeyer to confirm the expected format and content of an updated DCP, Fonterra has engaged Dave Mansergh from Mansergh Graham Landscape Architects (“**Mansergh Graham**”) to undertake this work. As discussed with Marius, there are some challenges with updating the existing DCP to an electronic format that is the same as other “second generation” DCP’s in the District Plan so it can be included within MPDC’s GIS system. The existing DCP is not to scale and appears to have some anomalies/inaccuracies that need to be addressed. Due to these complications and the current high workload of Mansergh Graham, unfortunately, this workstream cannot be completed by the 30 November deadline. This workstream is currently scheduled to be completed by 22 December 2022. As part of this workstream, we will investigate and address the discrepancy highlighted in the RFI regarding the location of the NECB in the north-eastern corner of Fonterra’s Farm.

ITEM 4 – IWI CONSULTATION

Following on from the 29 September 2021 email advice from Abbie Fowler (Mitchell Daysh Ltd), the following provides an overview of Iwi consultation undertaken to date by Fonterra:

- Ngāti Hauā – formal feedback via Norm Hill confirming that Ngati Haua do not have any objections to the plan change application (attached as **Appendix E** to the Plan Change Application);
- Ngāti Rāhiri Tumutumu – verbal response from Jill Taylor confirming they are happy for Ngāti Hauā to take the lead.
- Ngāti Tara Tokanui – verbal response from Amelia Williams confirming they are happy for Ngāti Hauā to take the lead.
- Ngāti Maru (Paul Majurey and Waati Ngamane) – no response at the point of writing.
- Ngāti Tamaterā (John McEnteer) – no response at the point of writing.

Fonterra will provide an update to relevant Iwi groups following the submission of this RFI response to MPDC (Iwi update expected to be completed by 22 December 2022). We will keep MPDC advised of any feedback received (and any subsequent changes to the plan change request).

ITEM 5 – AFFECTED PARTY CONSULTATION

In terms of consultation with the surrounding Waitoa community, Fonterra notes the following statement in the RFI:

If limited notification is accepted by Council, then we signal now that it is our intention to also include parties directly adjoining the new NECB as potentially affected, given the potential increase in noise as a result of expanding the NECB. In the interests of our “no surprises” approach we attach an indicative plan (see Attachment 4) showing the parties that we would likely deem potentially affected.

Fonterra does not agree with this assessment of potentially affected parties for the following reasons:

1. As demonstrated on the MDA plan attached as **Appendix C** to the application, the proposed NECB reflects a reduction of noise from the Waitoa Site compared to historic levels. As discussed in the following section of this letter, MDA has confirmed that noise from the Waitoa Site has reduced to such an extent that it is now complying with the proposed NECB (as a result of noise attenuation measures undertaken).
2. Because the Waitoa Site would be required to comply with the 45 dB (L_{Aeq}) noise limit at the proposed NECB, any factory related noise beyond the NECB would be within the District Plan permitted baseline parameters for houses within the Waitoa Village, so in this regard has an acceptable level of effects in terms of surrounding neighbours. It is also noted that the existing DCP noise rules permit the Waitoa Site to generate up to 50 dBA (L₁₀) between 7.00am-10.00pm, Monday to Sunday. In the plan change application, Fonterra is not seeking to retain a higher daytime noise limit, instead the 45 dB (L_{Aeq}) noise limit would apply 24 hours/day.

Accordingly, consistent with the assessment in Section 11 (Notification) of the plan change application, Fonterra still considers that on a statutory basis:

Only those properties that fall within the proposed NECB, being those properties that will be subject to a different level of noise than that currently enabled by the District Plan, stand to be affected by the change.

Therefore, Fonterra is still of the view that the plan change application does not require full public notification, or a more extensive limited notification process, beyond these parties owning or occupying property within the proposed NECB.

Having said that, Fonterra has made the decision to undertake consultation with those neighbours highlighted in blue on the plan included as Attachment 4 to the RFI (including those immediately

outside of the proposed NECB). Fonterra will undertake a letterbox drop in December to provide an update on Plan Change 55 and include details for neighbours to provide feedback. As requested, Fonterra will provide MPDC with “*evidence of the engagement, feedback received, and any subsequent changes to your plan change request as a result of neighbours consultation*” (currently expected to be provided by the end of February 2023).

FURTHER NOISE MONITORING

While not a requirement of the RFI, Fonterra engaged MDA to undertake additional noise monitoring work to provide greater certainty that the underlying noise model used to determine the location of the proposed NECB is robust, this was achieved by:

- Deploying a noise logger for a number of months to capture noise from the Waitoa Site during off and full production; and
- Undertaking a routine annual noise survey.

Based on the results of the noise logger and annual noise survey, MDA concluded that noise from the Waitoa Site is consistent with the MDA noise model, and as a result of noise attenuation measures, compliance with the proposed NECB is currently being achieved (and can continue to be achieved in the future).

Please do not hesitate to contact me if you have any queries or comments regarding the further information provided, otherwise could you please confirm that the current proposed timeframes for providing an updated DCP and progressing Iwi and community consultation are acceptable.

Yours sincerely



Graeme Mathieson
Mitchell Daysh Ltd
graeme.mathieson@mitchelldaysh.co.nz

APPENDIX A

Marshall Day Acoustics RFI Response

MEMO

Project:	MPDC – PC5	Document No.:	Mm 002
To:	Fonterra Co-op Ltd	Date:	18 February 2021
Attention:	Brigid Buckley	Cross Reference:	-
Email:	Brigid.Buckley@fonterra.com	Project No.:	20180785
From:	Damian Ellerton	No. Pages:	2 Attachments:
Subject:	S92 response - acoustics		

This memo addresses acoustic related matters raised in the S92 dated 22 January 2021. The matter raised are dealt with in the order they appear in the S92.

Noise from train on-site

Yes, train activity on Fonterra site has been included in predicted noise level

DCP Noise rules

Noise level in bedrooms

The proposed rule is for a noise level in bedrooms of up to 35dB LAeq (hour) for existing houses under consideration, and 30dB LAeq (hour) for new houses/extensions that include bedrooms etc.

These proposed internal noise limits have been used successfully elsewhere in New Zealand. These noise levels also reflect guidance given by World health Organisation and AS/NZS 2107:2016.

Habitable rooms other than bedrooms

For the reasons given regarding noise level in bedroom we are comfortable that our proposed noise limit in other habitable rooms is appropriate.

“1 hour” to be removed

The 1 hour subscript is the reference time interval to which the measured noise level shall be compared. The “1 hour” is not the measurement time. Deleting the subscript time interval would mean the guidance provided in NZS6801 and 6802:2008 would not be followed and this is contrary to best practice.

New vs old dwelling

This approach has been implemented successfully elsewhere in New Zealand. New houses are assumed to be inherently “better built” than an older one, and therefore better sound insulated.

No building platform outside NECB for undeveloped land

Land that may be spilt by the presence of the NECB such that it does not have a building platform available outside the NECB will be discussed by others.

Air conditioning vs mechanical ventilation

We have used the term mechanical ventilation to align with terminology used in Building Code Clause G4. The term “air conditioning” does not appear in Clause G4 and in our experience the common usage regarding domestic installations refers to heat pump units. Standard domestic heat pump units simply heat and cool air within a room and do not introduce fresh air into a space as would be required if windows were required to be closed to ensure internal noise levels were achieved.

Don't measure actual noise at houses, estimate using NECB

We disagree that actual site noise measurement should be set aside for estimation based on NECB. The NECB may not take into consideration local features that are relevant on a case by case basis.

Proposed changes to noise rules

The proposed noise rules were drafted collaboratively with legal advice. In our opinion the changes suggested should not be incorporated for the reasons given above.

In terms of the rule phraseology – that is more of a legal issue than technical acoustic matters.

The use of “habitable rooms” vs “spaces” is accepted for consistency, particularly if the NPS provides this.

We are ambivalent about emphasizing “noise sensitive activity” rather than “sensitive activity” as the rules under which this term is used clearly relate to noise. Reverse sensitivity is a concept and effect that is well understood and to avoid misunderstanding the matter raised could be dealt with by way of a footnote.

Use of NZTA definition

We recommend care is taken when providing definition of terms - preferable to rely on NPS definition in the first instance.

APPENDIX B

Updated District Plan Amendments

APPENDIX B
MATAMATA DISTRICT PLAN
FONTERRA PROPOSED PLAN CHANGE
Schedule 5: Sites subject to a Development Concept Plan

Proposed Amendments

Development Concept Plan, Fonterra- Waitoa

Delete existing provisions Noise (a), (b) and (c) and Noise Emission Control Boundary and replace with the following:

New Permitted Activity Standards

1. Noise levels associated with any activity or combination of activities within the existing or future Development Areas defined on the Development Concept Plan shall not exceed the following at the Noise Emission Control Boundary:
 - a) 45dBA (L_{Aeq});
 - b) 75dBA (L_{AFmax})

Existing Buildings Accommodating Noise Sensitive Activities

2.
 - a. Within six months of [date plan change becomes operative], Fonterra shall, in respect of any building that existed at [date plan change becomes operative] accommodating a noise sensitive activity that falls within the Noise Emission Control Boundary for the Waitoa Dairy Factory, make an offer to the owner(s) to assess the internal noise levels within any habitable spaces/rooms from the operation of the Waitoa Dairy Factory.
 - b. If the owner(s) accept Fonterra's offer, the assessment of internal noise levels within habitable spaces/rooms shall be undertaken by a suitably qualified and experienced acoustic consultant during the busiest period for the Waitoa Dairy Factory (e.g. August to November). The results of the internal noise assessment will be used to determine what noise mitigation is required (if any) to ensure internal noise levels from operation of the Waitoa Dairy Factory are controlled to an appropriate level.
 - I. If the internal noise level in bedroom(s) is greater than 35dB L_{Aeq} (1 hour) and/or other habitable room is greater than 40dB L_{Aeq} (1 hour) in any other habitable room, then a further assessment shall be undertaken with windows closed to determine what mitigation measures are required under II and III to achieve an internal noise level that is equal to or less than does not exceed 35dB L_{Aeq} (1 hour) (in bedrooms) and/or 40dB L_{Aeq} (1 hour) (in all other habitable rooms).
 - II. If the internal noise level in bedroom(s) is less than 35dB L_{Aeq} (1 hour) (with windows closed) and/or other habitable room is less than 40dB L_{Aeq} (1 hour) in any other habitable room (with windows closed), a mechanical ventilation system shall be offered to be installed to provide ventilation.
 - III. If the internal noise level in bedroom(s) is greater than 35dB L_{Aeq} (1 hour) (with windows closed) and/or other habitable room is greater than 40dB L_{Aeq} (1 hour) (with windows closed), a

mechanical ventilation system shall be offered to be installed **and** other measures such as upgraded glazing alternatives shall be offered to be installed.

- c. The noise mitigation measures ~~installed~~ shall be ~~installed completed~~ within six months of ~~the offer~~ being accepted by the property owner, or such alternative timeframe agreed in writing by the property owner(s), and shall be certified as achieving the required level of mitigation by a suitably qualified and experienced acoustic consultant.

Note: For the purpose of this rule, a 'mechanical ventilation system' means a system complying with the requirements of the Building Code (NZS 4303) for mechanical ventilation (refer Clause G4). This rule will ensure a minimum level of ventilation.

3. Rule 2a shall cease to have effect from (*6 months from Plan Change being made operative*), or in circumstances where the owner(s) of a building accommodating a noise sensitive activity declines the offer by Fonterra to assess the internal noise levels within any habitable rooms, whichever is sooner. Written confirmation of any decline of an offer to assess a property under Rule 2a shall be provided to Matamata-Piako District Council and shall be regarded as confirmation that the owners consent to noise emissions from the Waitoa Dairy Factory.
4. Within one month of the completion of any mitigation works, confirmation of the ~~of~~ works being completed and performing at the required level of mitigation (as certified by a suitably qualified and experienced acoustic consultant), shall be provided to the property owners and Matamata-Piako District Council.
5. All noise levels shall be measured and assessed in accordance with the requirements of New Zealand Standard NZS 6801:2008 "Acoustics – Measurement of Environmental Sound" and New Zealand Standard NZS 6802:2008 "Acoustics - Environmental Noise".

Performance Standards - all activities

New Rule 5.2.~~1314~~ Noise Insulation: Noise Sensitive Activities within the Fonterra Waitoa NECB

5.2.~~1314~~

Any habitable room in a new building accommodating a noise sensitive activity or any alteration(s) to an existing building accommodating a noise sensitive activity constructed within the Noise Emission Control Boundary for the Waitoa Dairy Factory shall be designed, constructed and maintained to meet an internal noise level of 30dB $L_{Aeq}(1 \text{ hour})$ inside bedrooms and other habitable rooms with windows closed providing an adequate supply of fresh air is provided by a mechanical ventilation system to each habitable room.

Compliance shall be achieved by, prior to the construction of any noise sensitive activity, submission of an acoustic design certificate from a suitably qualified and experienced acoustician to Council demonstrating that the prescribed internal noise levels will be achieved. The building will be designed, constructed and maintained in accordance with the design certificate.

Where the noise level can only be met with windows and doors closed, a suitable mechanical ventilation system shall be installed for the habitable room(s).

Note: For the purpose of this rule, a 'mechanical ventilation system' ~~System~~ means a system complying with the Building Code (NZS 4303) for mechanical ventilation (refer Clause G4). This rule will ensure a minimum level of ventilation.

Definition of Terms

The following terms are defined below for the purposes of implementing the above Development Concept Plan rules:

“**Habitable room**” means any room used for the purposes of teaching or used as a living room, dining room, sitting room, bedroom, office or other room specified in the Plan to be a similarly occupied room.

“**Noise sensitive activity**” means:

- (a) any residential activity (including visitor accommodation and retirement accommodation)
- (b) any educational activity
- (c) any healthcare activity
- (d) any congregations within places of worship or marae.

Planning Maps

Amend the Development Concept Plan Diagram to replace the existing NECB with the proposed 45dBA Noise Emission Control boundary (attached in Appendix C).

30 November 2022