

Our Ref: PC55 – 21/489
Enquiries to: Joao Paulo Silva



22 January 2021

Mitchell Daysh Limited
PO Box 1307
Hamilton 3240

Attention: Ian Johnson
ian.johnson@mitchelldaysh.co.nz
Copy to: Bridget Buckley
Brigid.Buckley@fonterra.com

Dear Ian

Acknowledgement of Plan Change Request – Private Plan Change 55: Development Concept Plan for Waitoa Dairy Manufacturing Facility - Request for Further Information (Clause 23, RMA Schedule 1).

Thank you for the above mentioned private plan change request on behalf of Fonterra, received by MPDC for processing on 4 December 2020.

MPDC staff and consultants have reviewed your request. We acknowledge and thank you for responding to a number of the matters discussed during the pre-application stage, in your final request.

Overall we are satisfied that your request is adequate to enable us to understand the proposal, the ways in which adverse effects will be managed, and the consultation undertaken.

However, there are a few remaining matters in respect of which we seek further information/ clarification under Clause 23 of RMA Schedule 1. These matters are:

1. Noise from the train when on-site

Please provide confirmation that noise from the train while operating on-site has been included in the noise levels modelled by Marshall Day and the limits proposed to be set in the DCP rules (see Paragraph 10 of the “Fonterra Waitoa Noise Management Plan”, Version 9, July 2020).

2. DCP Noise Rules

Nevil Hegley has reviewed the proposed noise rules for MPDC. His advice and suggested changes to the rules are attached (Attachment 1). In summary:

- In order to provide adequate protection for sleep, internal noise limits within bedrooms should not exceed 30dB L_{Aeq}.

- For habitable rooms other than bedrooms, the current proposal to adopt a difference of 5dB is accepted, meaning that the internal noise limits for other habitable rooms should be set at 35 dB L_{Aeq} .
- Adopting a “1hr L_{Aeq} ” measurement as proposed is in conflict with NZS6801/2. To avoid the conflict, the “ L_{Aeq} ” measurement (without reference to “1 hour”) should be used, as the appropriate time period for measurement is already defined in NZS6801/2.
- The same noise limits should be applied to existing and new dwellings as there is no basis for adopting different standards.
- 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 acknowledging that neighbours who have to close windows to meet the internal noise limits are disadvantaged, the noise rule should specify an air-conditioning system, as opposed to mechanical ventilation.
- There is no need to measure the noise levels, as the NECB sets a definite level to design for. All subsequent assessment relates to the level controlled by the NECB. This approach should be adopted in the rules as it will simplify the assessment.

The proposed changes to the noise rules resulting from the above recommendations are shown in Attachment 1.

In addition, Joao Paulo Silva has reviewed the terminology used in the rules and the need for the terms to be defined (see Attachment 2). In summary he recommends that:

- 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”.
- 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.

We invite you to please give consideration to the above recommendations in finalising your plan change request as it remains our preference to agree the provisions upfront rather than to have to seek amendments through the submission process and call expert evidence at the resulting hearing.

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

3. DCP Format

Our expectation is that the DCP should be presented in the same format as the other “second generation” DCPs (i.e. Inghams, Tatua and Waharoa¹) and that an electronic version be made available to MPDC in a format that is able to be changed (such as a “.dwg-file”).

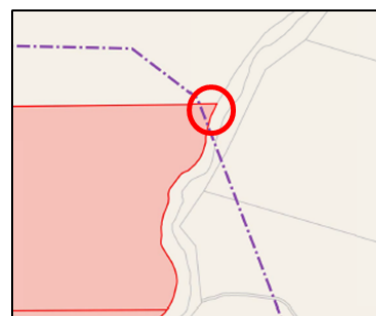
To this end we ask that you please provide us with the complete DCP in three sheets:

- **Sheet 1** – To comprise the site development plan, in other words the same drawing as on the current DCP but with the activity schedule and rules removed, presented in an electronic format such as a “.dwg-file” (or similar). In addition we would prefer that the DCP title is changed to “**Development Concept Plan – Waitoa Dairy Manufacturing Facility**” in order to avoid confusion in case there is a change in the name of the site operator. You can either remove the NECB from Sheet 1, or otherwise it needs to be amended to reflect the current proposal.
- **Sheet 2** – To comprise of the activity schedule as shown on the face of the operative DCP and the new noise rules, presented as a word document able to be amended in future if required.
- **Sheet 3** – To show the DCP site boundaries and the location of the NECB on a recent aerial photograph in adequate detail to enable the plan to serve as a reference of buildings existing at the time of notification of the proposed DCP.

MPDC will also include the location of the NECB on the electronic version of the District Plan, using a shapefile that you need to provide to us. We attach a print-out (Attachment 3) of the shapefile that you provided with your plan change request. You will note that there is a discrepancy in the northern corner of the site (see snip below) where the NECB needs to be relocated to align with the property boundary as shown on the drawing attached to the Marshall Day Report (Appendix A to your plan change request).



NECB - Marchall Day Report



NECB - Shapefile

¹ See:

<http://eplan.mpd.govt.nz/districtplan/PC46/DCPs/Poultry%20Processing%20and%20Manufacturing%20Site%20-%20Waiheka%20Road%20-%20Waitoa.pdf>

http://eplan.mpd.govt.nz/districtplan/PC52/Tatua_Cooperative_Dairy_Co_Ltd_optimized.pdf

<http://eplan.mpd.govt.nz/districtplan/PC51/OCC%20Final%20DCP.pdf>

Please provide an amended shapefile adjusted to correctly reflect the location of the NECB.

4. Iwi consultation

We note that you have consulted with Ngāti Hauā but none of the other iwi authorities that have mana whenua interests in the area and are listed as such on the Te Puni Kōkiri website.

We understand that you do not consider it necessary to consult with all relevant iwi authorities because they are not affected by your plan change. We agree that there is a statutory basis to your assertion² and that MPDC cannot require you to consult with all relevant iwi authorities³.

Regardless of whether other iwi authorities will be affected by the plan change it is our view that, in the interests of ensuring consistent treatment and communication, all iwi authorities should be consulted in the same manner as Ngāti Hauā.

We would therefore encourage you to initiate consultation with all relevant iwi authorities now, failing which MPDC (if/when the plan change is accepted/adopted) will use its discretion under Clause 3 of Schedule 1 RMA to carry out additional iwi consultation.

By initiating additional iwi consultation now, you will avoid later delay in processing of the plan change once accepted/adopted and prior to proceeding to notification. In this regard it is our expectation that, as a minimum, you would write to the iwi listed below⁴ and invite them to engage in consultation:

- Ngāti Hako;
- Ngāti Maru (Hauraki);
- Ngāti Paoa;
- Ngāti Rāhiri Tumutumu;
- Ngāti Tamaterā;
- Ngāti Tara Tokanui; and:
- Waikato iwi.

On completion of the engagement we ask that you please provide evidence of the engagement, feedback received, and any subsequent changes to your plan change request as a result of consultation.

5. Affected party consultation

It was our expectation that you would consult more broadly than just through your annual community meeting, with the parties who may be affected by the change in NECB. However, we accept that there is no statutory obligation on you, and no legal duty on MPDC, to consult with neighbours.

² See Clause 3(1)(d) of Schedule 1 RMA.

³ See Clauses 21 – 29 of Schedule 1 RMA.

⁴ See the Te Puni Kōkiri (TPK) website (<http://www.tkm.govt.nz/localauthority/matamata-piako-district-council/>) summarised in Attachment 5.

When/if the plan change is accepted/adopted by MPDC, we intend to seek direction from Councillors on the extent of neighbours consultation (using the discretion under Clause 3, Schedule 1 RMA) they want us to carry out before the plan change proceeds to notification.

As in the case with iwi consultation we encourage you to initiate broader neighbours consultation at this time, so as to avoid potential delay in notification of the plan change once accepted/adopted.

In this regard it is our expectation that, as a minimum, you would write to the potentially affected parties identified in Attachment 4 and invite them to engage in consultation. On completion of the engagement we ask that you please provide evidence of the engagement, feedback received, and any subsequent changes to your plan change request as a result of neighbours consultation.

Process from hereon

We have put the processing of your request on hold from 22 January 2021. Please advise us under Clause 23(5) whether you agree to provide the information and please supply a timescale within which you intend to provide the information. Alternatively if you decline to provide the information please advise us in order that we can proceed with considering your request based on the information provided.

Once we receive the information or written notice that you decline to provide the information, we will make a recommendation to full Council as to whether or not to accept/adopt the request, seek direction on additional consultation to be carried out prior to notification, and obtain confirmation of the notification requirements (i.e. public vs limited notification).

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.

Consolidated response

For ease of reference, it will be appreciated if you could kindly provide a consolidated response, to all the matters raised above. Alternatively, if you are going to respond in part, kindly follow that up with a consolidated response once all matters have been resolved.

Conclusion

We thank you for your willingness to continue to work collaboratively with us on the Waitoa Plan Change and for your consideration of the matters raised above.

If you have any questions or require further clarification of anything in this letter please do not hesitate to contact Council's policy planner Joao Paulo Silva (phone: 07 884-0060; email: jsilva@mpdc.govt.nz) or our planning consultant responsible for the processing of your request, Marius Rademeyer (mob: 021-114-6290; email: roadhouse@outlook.co.nz).

Kind regards,



Ally van Kuijk
District Planner