

Council

Open Agenda



Notice is hereby given that an ordinary meeting of Matamata-Piako District Council will be held on:

Date: Wednesday 24 April 2019
Time: 9am
Venue: Council Chambers
35 Kenrick Street
TE AROHA

Membership

Mayor

Janet E. Barnes, JP

Deputy Mayor

James Thomas, JP

District Councillors

Donna Arnold

Teena Cornes

Paul Cronin

Neil Goodger

Brian Hunter

Peter Jager

James Sainsbury

Ash Tanner

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1 Meeting Opening

2 Apologies

At the close of the agenda no apologies had been received.

3 Leave of absence

At the close of the agenda no requests for leave of absence had been received.

4 Urgent Additional Business

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“An item that is not on the agenda for a meeting may be dealt with at that meeting if-

- (a) The local authority by resolution so decides; and
- (b) The presiding member explains at the meeting, at a time when it is open to the public,-
 - (i) The reason why the item is not on the agenda; and
 - (ii) The reason why the discussion of the item cannot be delayed until a subsequent meeting.”

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“Where an item is not on the agenda for a meeting,-

- (a) That item may be discussed at that meeting if-
 - (i) That item is a minor matter relating to the general business of the local authority; and
 - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion.”

5 Declaration of interest

Members are reminded of their obligation to declare any conflicts of interest they might have in respect of the items on this Agenda.

6 Confirmation of minutes

Minutes, as circulated, of the Ordinary Meeting of Matamata-Piako District Council, held on 10 April 2019

7 Matters Arising

8 Announcements

9 Notices of Motion

Plan Change 51 - Open Country Dairy Development Concept Plan

Trim No.: 2133005

Executive Summary

Private Plan Change 51 seeks to introduce a Development Concept Plan (DCP) for the Open Country Dairy milk processing site in Factory Road, Waharoa.

No appeals have been received on Council's decision in regards to Plan Change 51. Therefore, this report seeks Council's resolution to seal the plan changes and set an operative date.

A copy of Plan Change 51 has been attached to be signed and sealed at the Council meeting.

Recommendation

That:

1. Pursuant to Clause 17 of Schedule 1 of the Resource Management Act 1991, Plan Change 51 is approved, sealed with the seal of Council, and signed by the Mayor and Chief Executive Officer; and
2. Pursuant to Clause 20 of Schedule 1 of the Resource Management Act 1991, Plan Change 51 become operative on 5 June 2019.

Content

Background

Plan Change 51 - Development Concept Plan for Milk Processing Site, Waharoa was initiated as a private plan change by Open Country Dairy Ltd. The purpose of the DCP is to provide for the integrated and coordinated development of the Open Country Dairy site, in advance of its current resource consents, to allow for additional growth and development of the milk processing facility.

Plan Change 51 has worked through the consultation process set out in Schedule 1 of the Resource Management Act 1991 ('The Act'). The proposed plan change was publicly advertised inviting submissions on 27 September 2017. Further submissions were invited on 29 November 2017. On 30 January 2019, Council, at a public meeting, made a decision on the DCP. A Council hearing was not held as no submitters requested to be heard in relation to the plan change.

Issues

As no appeals to the plan change were received, Council is now required to make the plan change operative.

Legal and statutory requirements

Under Clause 17 of Schedule 1 of the Resource Management Act 1991, Council is required to approve the plan change and this is given effect to by affixing the seal of the Council to the proposed plan change.

Impact on policy and bylaws

Once the plan change is operative the District Plan will be amended to reflect the proposed changes. The rules of the plan change are already being treated as operative in accordance with the provisions of the Act because there were no appeals.

Consistency with the Long Term Plan / Annual Plan

There is no impact on the Long Term Plan or Annual Plan.

Impact on significance policy

This will not have an effect on the significance policy.

Communication, consultation and decision making processes

Under clause 20 of Schedule 1 of the Resource Management Act 1991, Council is required to publicly notify the date on which the plan change will become operative. This will be through "Council in Focus" in the *Piako Post* and the *Matamata Chronicle*.

Consent issues

There are no consent issues

Timeframes

The operative date must be at least 5 working days after the date on which the Council has publicly notified its intention to make the plan change operative. In this case, the public notice will be run on Wednesday 1 May 2019, and the operative date will be Wednesday 5 June 2019.

Financial Impact

The costs of notifying and updating the District Plan will be from existing budgets.

<Insert text>

Attachments

[A↓](#). PC 51 - Final operative report

Signatories

Author(s)	Mark Hamilton Environmental Policy Planner	
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Approved by	Ally van Kuijk	
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	District Planner	
	Dennis Bellamy Group Manager Community Development	

**Matamata-Piako District Plan
Proposed Private Plan Change 51 –
Development Concept Plan for
Milk Processing Site, Waharoa
(Open Country Dairy Ltd)**

**Clauses 17 and 20, First Schedule RMA
Recommendation to approve, and declare
Plan Change 51 operative**

09 April 2019

Ref: 090419

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Item 10.1

Attachment A

1. Introduction and overview

This report has been prepared by consultant planner Marius Rademeyer assisted by Matamata-Piako District Council (“**MPDC**”) planning staff. The report concerns Private Plan Change 51 (“**Plan Change**”) to the Operative Matamata-Piako District Plan (“**District Plan**”).

The Plan Change has been lodged by DCS Planning Consultants (“**DCS**”) on behalf of Open Country Dairy Ltd (“**OCD**”) and relates to OCD’s dairy processing site in the Waharoa industrial area.

The Plan Change sought to establish a customised Development Concept Plan (“**DCP**”) for the site to provide more regulatory certainty for future development while ensuring that appropriate controls are in place to avoid, remedy or mitigate adverse effects.

The plan change process commenced in 2016 when MPDC planners held discussions with OCD regarding a suitable framework that would provide for the integrated resource management for the site. At this stage MPDC planners first mooted the concept of a site-specific DCP as a mechanism to regulate the future development of the site.

The discussions culminated in OCD appointing DCS to draft a proposed DCP for the site and to prepare a private plan change request to seek that the DCP be incorporated into the District Plan.

During September 2016, OCD submitted a first draft of the proposed DCP and Plan Change Request for review by MPDC planners. Subsequently, OCD’s consultant worked collaboratively with MPDC planners to refine the draft.

Following further reiterative refinements of the draft, the final Plan Change request was lodged on 8 August 2017 for the decision of the Matamata-Piako District Council (“**Council**”).

Council considered the matter at its meeting held on 23 August 2017 and resolved to accept the Plan Change request (“**Request**”) as a private plan change in accordance with clause 25(2)(b) of Part 2 of Schedule 1 of the Resource Management Act 1991 (“**RMA**”).

The Plan Change was subsequently notified for submissions and further submissions. Following closure of submissions, OCD consulted with submitters. The parties have reached agreement whereby all matters in dispute were resolved through amendments to the Plan Change. As no parties wanted to be heard in relation to the Plan Change the Council did not hold a hearing.

On 30 January 2019, the Council considered a Section 42A Report and Section 32AA Further Evaluation prepared by Staff and decided, pursuant to Clause 29(4) of Schedule 1 to the RMA, to amend the Plan Change as set out in the minutes of the Council meeting.

The above Council decision was subsequently publicly notified under Clauses 10, 11 and 29 of the First Schedule of the RMA, with 21 March 2019 as the deadline for lodging appeals to the Environment Court.

As no appeals were received, this report will recommend that the Council approves Plan Change 51 as notified, under Clause 17 of Schedule 1 of the RMA in order for the plan change to be made operative under Clause 20 of Schedule 1 of the RMA.

The RMA requires that the Council must give public notice at least five working days before the date on which Plan Change 51 will become operative.

The Plan Change will take legal effect from the operative date and from this date will be included in the District Plan, thereby completing the plan change process.

2. Statutory requirements

The statutory requirements for assessing and determining private plan change requests were set out in the Section 42A Report presented to Council on 30 January 2019 and are not repeated here. In summary, Section 73 of the RMA gives Council the authority to change its District Plan after considering the matters in Parts 2 and 5 and Schedule 1 of the Act.

To date, the Council has completed the process with the exception of declaring the Plan Change operative under Clauses 17 and 20 of the First Schedule of the RMA.

The relevant clauses determine as follows:

Clause 17(1) of the Schedule 1 of the RMA requires the Council to approve a plan change, once all submissions and appeals have been disposed of. Clause 17(1) is essentially an administrative step whereby the Council is obliged to approve the plan change once it is satisfied that all submissions and appeals have been disposed of.

Clause 17(3) of Schedule 1 of the RMA, establishes that approval to make a proposed plan change 'operative' needs to be effected by affixing the seal of the local authority to the plan change. The seal is required to be signed by the Mayor and another member of Council.

In this instance the submissions were resolved through negotiations and none of the parties wanted to be heard. The Council's decision on the Plan Change was publicly notified and no appeals were lodged. Consequently, the Council can be satisfied that its decisions taken at the 30 January 2019 meeting on the Plan Change are now beyond legal challenge. Consequently, the Council may now approve that Plan Change 51 can be made operative and affix its seal in accordance with the Act.

Clause 20 determines that the Council must publicly notify the date on which Plan Change 51 will become operative, at least 5 working days before the operative date.

In this regard if Council approves the plan change as being 'operative', then staff will need to publicly notify this and then amend the District Plan. It is anticipated that Plan Change 51 will be publicly notified as being operative from 5 June 2019.

3. Conclusion and recommendations

Private Plan Change 51 has progressed through the plan making process to the stage where it is now beyond legal challenge. The approved plan change must have Council's seal affixed and be signed by the Mayor and another member of Council. The approved plan change must also be publicly notified and the date that it becomes operative advised.

Therefore, it is recommended that the Matamata-Piako District Council:

- i. Receives this report.
- ii. That pursuant to Clause 17(1) of Schedule 1 of the Resource Management Act 1991 the Matamata-Piako District Council approves Private Plan Change 51 – Development Concept Plan for Milk Processing Site, Waharoa (Open Country Dairy Ltd) as modified by its decisions at the meeting held on 30 January 2019 and subsequently publicly notified.
- iii. That pursuant to Clause 17(3) of Schedule 1 of the Resource Management Act 1991 the Matamata-Piako District Council affixes the seal of the Council to Private Plan Change 51 – Development Concept Plan for Milk Processing Site, Waharoa (Open Country Dairy Ltd).
- iv. That pursuant to Clause 20(1) of Schedule 1 of the Resource Management Act 1991 the Matamata-Piako District Council declares Private Plan Change 51 – Development Concept Plan for Milk Processing Site, Waharoa (Open Country Dairy Ltd) to become operative on 5 June 2019.

Plan Change 52 - Development Concept Plan for Tatua

Trim No.: 2135884

Executive Summary

Private Plan Change 52 seeks to introduce a Development Concept Plan (DCP) for the Tatua milk processing site on State Highway 26, Tatuani.

The purpose of the revised DCP is to provide for the integrated and coordinated development of the Tatua site by replacing its existing DCP and current resource consents to allow for additional growth and development of the milk processing facility.

This report seeks that Council, after considering the submissions received, approves the plan change for the reasons outlined in the Section 42A report.

Recommendation

1. **The report be received and the staff recommendations on the submissions to the plan change and the proposed amendments to the plan change be considered.**
2. **Pursuant to clause 10 of Schedule 1 of the Resource Management Act 1991, Council accepts the submissions received as outlined in Appendix A of the Hearing Report.**
3. **Pursuant to clause 29(4) of Schedule 1 of the Resource Management Act 1991 the Council makes its decision to approve the plan change as outlined in the report.**

Content

Background

Council accepted the request for the private plan change at the meeting held 14 February 2018. The plan change was notified on 28 February 2018, with four submissions and one further submission received. One submission was later withdrawn, which resulted in the consequential withdrawal of the further submission. As no parties wanted to be heard, a hearing is not required.

However, Council still needs to make a decision on the plan change and the matters raised in the submissions. This decision, once notified, will then be subject to a 30 working day appeal period. Should no appeals be received, the plan change can then be made operative by Council.

To assist Council in making its decisions, a Section 42A report has been produced. The report includes background to the plan change, analysis of the submissions, recommendations on each submission point, proposed amendments to the DCP, and a further evaluation of the proposed amendments under Section 32AA.

The report and accompanying documents will be circulated prior to the Council meeting in accordance with the provisions of the Resource Management Act 1991 and its amendments.

The report can be viewed in conjunction with the following appendices:

- **Appendix A:** Summary of submissions and further submissions.
- **Appendix B:** Recommended changes to DCP (track changes), and other consequential changes to the District Plan proposed as a consequence of the Plan Change.

All other documents related to the plan change are available on the Council website.

Analysis

Options considered

The plan-making process has now progressed to the stage where it is referred back to the Council for its decisions on the submissions from the three submitters; Council has the following options:

- (i) Accept the submissions; or
- (ii) Accept the submissions in part and modify the plan change; or**
- (iii) Reject the submissions.

In making the decision on the plan change, Council has the following options:

- (i) Accept the plan change; or
- (ii) Accept the plan change with modifications to the plan change; or**
- (iii) Reject the plan change.

Analysis of preferred option

This report recommends the options emphasised in bold above. The supporting analysis is provided below.

The recommendation of this report is to accept the submissions of support from submitters New Zealand Transport Agency (NZTA) and Matamata-Piako District Council staff who sought amendments to the DCP. Kiwirail withdrew their submission whilst Ngati Haua Iwi Trust, whose submission initially opposed the plan change, have worked with the applicant and no longer wish to be heard.

The recommendation of this report is to accept the submission from NZTA, and to modify Private Plan Change 52 as shown in part 7 of the Section 42A report for the following reasons:

- (i) The traffic effects of the development envisaged under the DCP, on the state highway network, have been appropriately assessed; and
- (ii) The proposed amendments to the DCP as shown in Appendix B will ensure the relief sought by the submitter, who did submit in support of the plan change, are addressed.

The recommendation of this report is to accept the submission from Matamata-Piako District Council staff, and to modify Private Plan Change 52 as shown in part 7 of the Section 42A report for the following reason:

- (i) The amendments proposed in the submission will improve the clarity of the DCP provisions, without altering the intent of the provisions as notified.

Impact on policy and bylaws

If the recommendation for this report is adopted it will result in changes to the Operative District Plan.

Impact on significance policy

There will be no impact on the significance policy.

Communication, consultation and decision making processes

Consultation on this plan change has been carried out in accordance with the Resource Management Act 1991. Further details in regards to this consultation are provided for in the Section 42A report.

Consent issues

There are no consent issues in regards to this plan change.

Timeframes

Timeframes in regards to this plan change are specified in the Resource Management Act 1991. However, further details of the specific timeframes that relate to this plan change are contained within the Section 42A report.

Financial Impact

i. Cost

Plan Change 52 – Development Concept Plan for Milk Processing Factory, Tatuani is a private plan change and therefore all costs fall with the applicant, Tatuani Co-operative Dairy Company Ltd.

Attachments

[A. Plan Change 52 - S42A Recommendation Report](#)

Signatories

Author(s)	Mark Hamilton Environmental Policy Planner	
Approved by	Dennis Bellamy Group Manager Community Development	
	Ally van Kuijk District Planner	

Matamata-Piako District Plan

Proposed Private Plan Change 52 – Development Concept Plan for Tatua Co-operative Dairy Company Ltd (Tatua)

Section 42A Report on: Section 32AA further evaluation, recommendation on submissions and proposed plan change

2 April 2019

Ref: 02042019

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Appendices:-

Appendix A

Summary of submissions and further submissions.

Appendix B

Recommended changes to DCP (track changes), and other consequential changes to the District Plan proposed as a consequence of the Plan Change.

1. Purpose of the report

This report has been prepared by consultant planner Marius Rademeyer assisted by Matamata-Piako District Council (**MPDC**) planning staff. The report concerns Private Plan Change 52 (**Plan Change**) to the Operative Matamata-Piako District Plan (**District Plan**).

The Plan Change has been lodged by Beca on behalf of Tatua Co-operative Dairy Company Ltd (**Tatua**) and relates to Tatua's dairy processing site at Tatuanui.

The Plan Change seeks to replace the existing Development Concept Plan (**DCP**) with an updated and expanded version including Rural zoned land adjoining the current DCP for the site to provide more regulatory certainty for future development while ensuring that appropriate controls are in place to avoid, remedy or mitigate adverse effects.

In 2016, Tatua approached MPDC to consider the promotion of a private plan change for the expansion and revision of the existing Tatuanui site and its Development Concept Plan. Draft documentation was prepared by Beca, who following consultation and collaboration with Council staff formally submitted the final documentation (dated 30 January 2018) that forms the subject of this application to Matamata-Piako District Council (**Council**) on 2 February 2018.

Council considered the matter at its meeting held on 14 February 2018 and resolved to accept the Plan Change request (**Request**) as a private plan change in accordance with clause 25(2)(b) of Part 2 of Schedule 1 of the Resource Management Act 1991 (**RMA**).

The plan change was notified on 28 February 2018, calling for public submissions which closed on 28 March 2018. The summary of submissions was notified, inviting further submissions on 9 May 2018. Further submissions closed on 24 May 2018.

Following closure of submissions Tatua consulted with submitters. The parties have reached agreement whereby all matters in dispute can be resolved through amendments to the Plan Change, as set out in this report. As a result, no parties want to be heard in relation to the Plan Change. Therefore, the Council is not required to hold a hearing.

The next step in the process is for Council to make its decisions on the submissions and to determine the outcome of the Plan Change.

This report has been prepared in accordance with section 42A RMA to assist Council in making its decisions. As such, the report will summarise the Plan Change, the matters to be considered by Council, the section 32 analysis undertaken and the submissions received. In addition, the report will make recommendations on the submissions, recommend changes to the Plan Change, undertake a further evaluation of these changes under section 32AA RMA and consider the merits of the plan change within the RMA's statutory framework.

Under clause 29(4) of the First Schedule to the RMA, Council has the authority to decline, or approve, or to make modifications to the Plan Change.

Upon considering the matters and having regard to a further evaluation, staff's recommendation as set out in this report is that Council accepts the Plan Change subject to amendments aimed at improving clarity of the DCP provisions. The modifications relate predominantly to amendments to the DCP's activity status classification, performance standards, and the matters of control, and discretion.

The recommended modifications, if accepted by Council, will resolve the matters raised by submitters, in full.

2. Overview

The Tatua Cooperative Dairy Company Limited was established by a group of eleven farmers in 1914 and has been operating from its Tatuani site for more than 100 years. The Company is the largest dairy cooperative in New Zealand that has not been part of a merger or acquisition. Farmer shareholders now total 111, all of whom are located within a 12 km radius from the factory.

The Company's processing site is located south-west of the intersection of State Highway 26 (SH 26) and State Highway 27 (SH 27), approximately 7 km north-east of the Morrinsville township. The site currently comprises approximately 10ha of land located on both sides of SH 26. The Company's processing facilities and offices are located on the eastern side of SH 26. A rural supply store and staff car parking facilities are located opposite the factory, along the western side of SH 26.

Tatua currently employs 300 staff comprising office and operations employees. Office staff work typical office hours from 8am to 5pm on weekdays. Operations staff work two twelve-hour shifts, from 4am to 4pm, and 4pm to 4am, seven days per week.

The original processing facility and office complex are located on land zoned "Industrial" overlaid with the "Tatua Development Concept Plan" ("DCP"), accessed from two vehicle crossings on to SH 26 (See Figure 1).

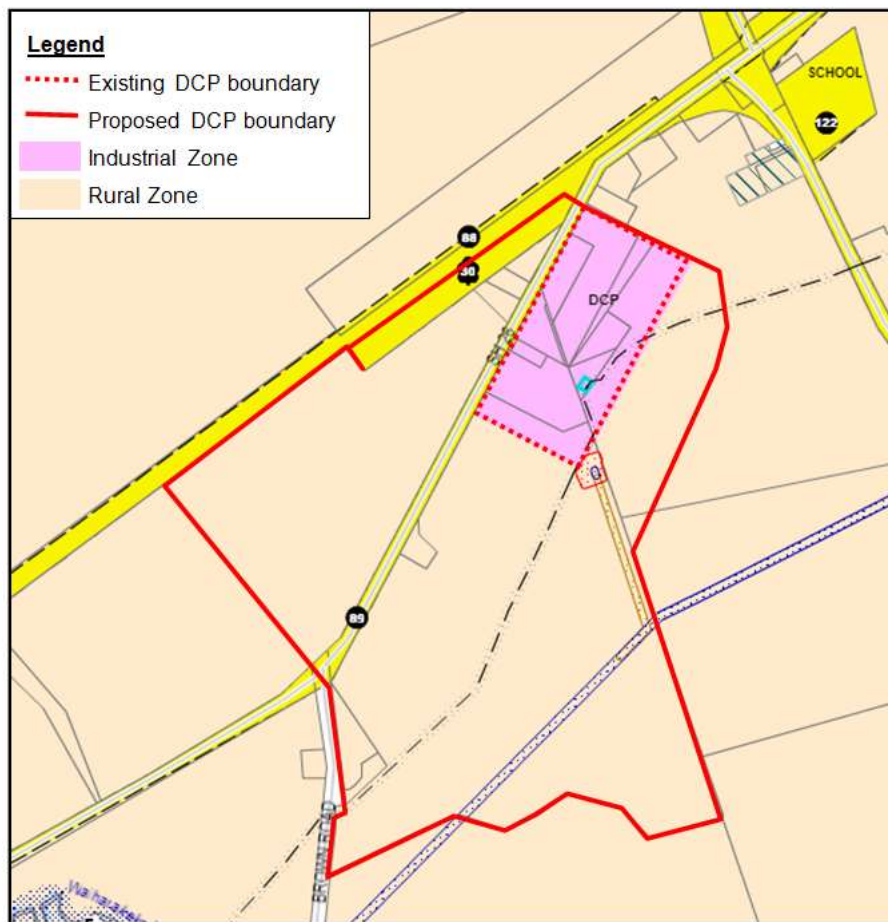


Figure 1: Zoning Map/Location Plan (Not to Scale)

The existing facilities comprise a milk reception area, milk dryers, warehousing and offices. Recently, the site was expanded by the construction of a third dryer, warehouse facility, container yard and additional car parking. The recent expansion includes land to the south, located within the Rural zone, outside the DCP (see Figure 2).

The Company's premises have outgrown the scale of development catered for under the current DCP with new resource consents likely to be required for the site's further development.

From Tatua's perspective, the current regulatory regime does not provide confidence to justify the scale of investment and long-term commitment to staff and local milk suppliers required to ensure the Company's viability into the future. From the Council's perspective, the current piecemeal assessment of consecutive development stages at the site under separate resource consent applications, is inefficient and prevents an integrated, holistic, evaluation of the long-term consequences.

To provide more regulatory certainty and efficiency for the future development of the site, Tatua has now applied for a private plan change. The Plan Change seeks to replace the site's current DCP with an updated and expanded version that includes adjoining "Rural" zoned land, covering a total area of some 48 ha.

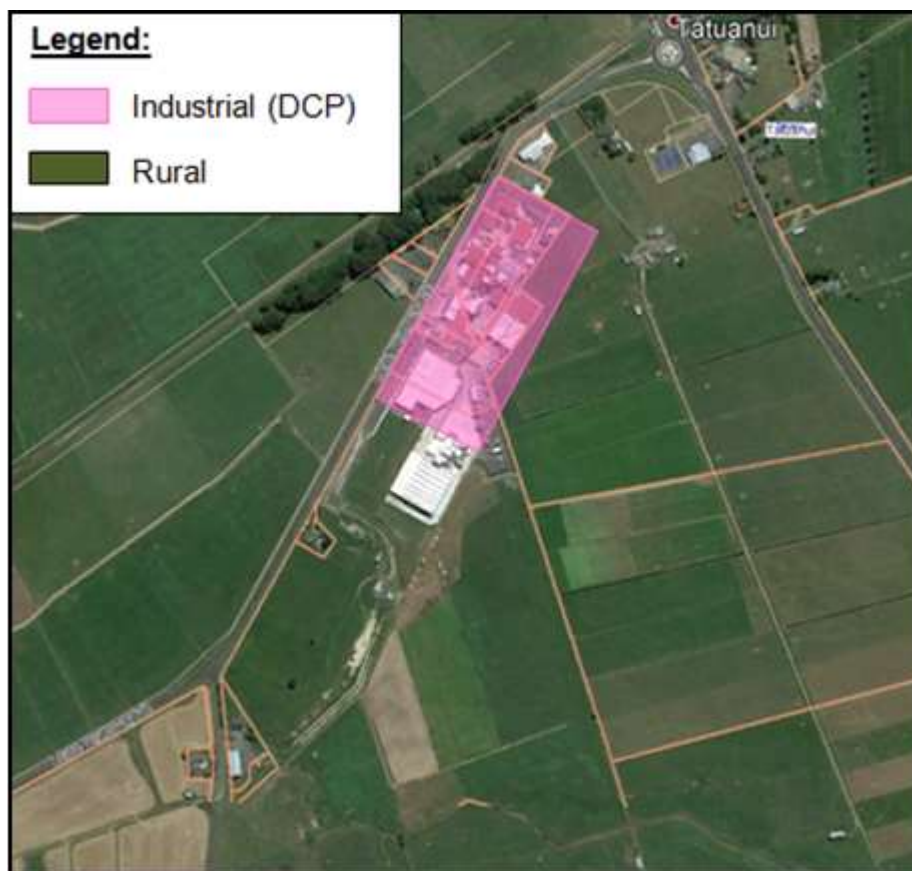


Figure 2: Existing Development

The key purpose of the plan change is to ensure that all existing activities are provided for under the District Plan and to provide certainty for the anticipated future development and sustainable use of the site to meet the growing global demand for dairy commodities.

Under the updated DCP, the existing activities that are subject to the current DCP provisions and supplementary resource consents will be authorised, and expansion of the site will be subject to site-specific development controls and performance standards that reflect the actual activities and the management of their effects.

The updated DCP will enable the Tatua site to continue to be managed in the same way that the District Plan currently manages most of the District's large processing sites including the Waitoa and Morrinsville dairy processing plants, the Inghams poultry processing site, and the Wallace and Greenlea meat processing sites.

Tatua's proposal for an updated DCP is also consistent with the private plan change request by Open Country Dairy Limited (recently accepted by Council) for a site-specific DCP to manage the future development of its Waharoa dairy processing site.

Under the Resource Management Act 1991 ("RMA") the Council must process Tatua's application under Schedule 1 of the Act. The first step in the Schedule 1 process requires Council to decide whether to reject the request, adopt the request as its own plan change, accept the request as a private plan change, or deal with the request as a resource consent application.

To this end, a staff recommendation that the request be accepted as a private plan change was considered at the 14 February 2018 Council meeting.

The plan change was accepted by the Council and the processes outlined in the RMA have subsequently been followed with the change being publicly notified.

The original dairy processing facility is authorised under the site's existing DCP. The recent expansion of the factory onto adjoining "Rural" zoned land has resource consent. The current operation also holds a suite of resource consents (signage, etc.) that permits activities that are outside of the parameters of the current DCP.

The rural supply store opposite the factory also operates under a separate activity-specific resource consent.

3. Plan Change proposal

Tatua's Plan Change request seeks to establish an updated and expanded site-specific DCP, within the District Plan, for its Tatuani dairy processing site.

The proposed DCP:

- Includes additional land adjoining the current DCP boundaries, while retaining the existing underlying "Industrial" and "Rural" zoning of the land areas proposed to be incorporated.
- Establishes three "precincts" within the DCP, to cater for respectively:
 - Development Area 1:** the processing of milk and other raw materials and ingredients;
 - Development Area 2:** administrative and commercial activities subsidiary to the processing of milk, and production of milk-related products; and
 - Development Area 3:** the treatment of wastewater and stormwater produced from on-site processing and manufacturing activities.
- Establishes development controls and performance standards that will apply to existing and proposed development on the site, including controls for:
 - Noise (including a Noise Emission Control Boundary);
 - Traffic movements, access and parking;
 - Earthworks;
 - Storage of hazardous substances;
 - Building height and setback;
 - Building colour;
 - Signage;
 - Vibration;
 - Lighting and glare;
 - Emissions to air; and

Spray irrigation setbacks.

- Provides for new buildings and structures associated with the processing of milk and production of milk-related products and ancillary administrative and commercial functions as a Permitted Activity where the development controls and performance standards are met, or a Restricted-Discretionary Activity where the standards and controls are not met.
- Retains Controlled, Restricted-Discretionary, Discretionary and Non-Complying status for generic activities outside the scope of the DCP, that the District Plan already provides for in the underlying “Rural” and “Industrial” zones.
- Sets “triggers” that require the upgrading of vehicle entrances, construction of a pedestrian underpass underneath SH 26, provision of car parking spaces, and implementation of landscaping.
- Provides clarity and certainty on the relevant matters of control, and discretion; and
- Aligns the updated DCP with the site’s existing DCP and supplementary resource consent conditions.

The Plan Change, once operative, will enable the site to be managed largely through a single, comprehensive planning instrument (“one-stop shop”) without having to reference separate sections of the District Plan and previous consent conditions.

The site specific DCP proposed by the Plan Change (see **Appendix B**)¹ comprises eleven sheets as follows:

- **Sheet 1** (see Figure 3) shows the boundaries of the DCP, extent of Development Areas 1 – 3, location of existing and proposed vehicle entrances, electricity and gas substation sites and underground cable corridors, Noise Emission Control Boundary (“NECB”), legal descriptions of the underlying property parcels, and existing dwellings within the NECB.
- **Sheets 2 – 5** contain the schedule that describes the status of activities (Permitted, Controlled, Restricted-Discretionary, Discretionary and Non-Complying), the performance standards that all Permitted Activities are required to comply with, and outlines the matters to which the DCP has reserved control and restricted discretion for Controlled and Restricted-Discretionary resource consent applications.
- **Sheet 6** describes the height control zones and building setback requirements;
- **Sheets 7 to 11** describe the landscaping requirements, including typical cross-sections, and provide an indicative planting list.

¹ Note the track changes in Appendix B show proposed amendments to the DCP since it was notified. These amendments are proposed in response to submissions and are discussed later in this report.

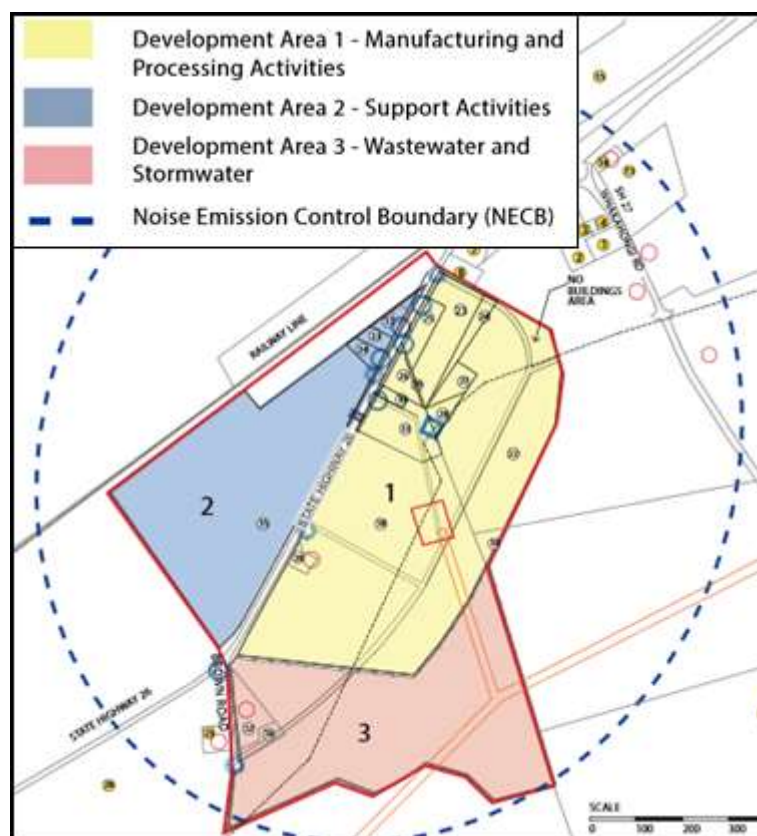


Figure 3: DCP Sheet 1

In summary, the DCP will provide for expansion of dairy processing and associated activities at the site, within defined areas, and subject to performance standards and development controls. In addition, the DCP will clarify the matters of control and discretion that will apply when future activities trigger a requirement for resource consents.

4. Process to date and the next steps

During 2016, Council planners held discussions with Tatua regarding an updated and expanded DCP as a mechanism to regulate future site development.

The discussions culminated in Tatua appointing BECA to prepare a revised DCP for the site and to compile a private plan change request to seek that the new DCP be incorporated into the District Plan, as a replacement of the existing DCP.

During September 2016, Tatua submitted a first draft of the proposed revised DCP and Plan Change request for review by MPDC planners. Subsequently, consultant planners at BECA worked collaboratively with MPDC planners to refine the draft.

Following further reiterative refinements of the draft, the final documentation (dated 30 January 2018) that forms the subject of this application was lodged with Council on 2 February 2018.

Council considered the matter at its meeting held on 14 February 2018 and resolved to accept the request as a private plan change in accordance with clause 25(2)(b) of Schedule 1 of the RMA.

The Plan Change was notified on 28 February 2018, with 28 March 2018 as the deadline for submissions. In response to the notification, MPDC received four (4) submissions of which one (1) from Kiwi Rail Holdings Ltd was subsequently withdrawn. The submissions were from Ngati Haua Iwi Trust (**NHIT**), Matamata-Piako District Council Staff (**MPDC**), KiwiRail Holdings Ltd (**KiwiRail**) and the New Zealand Transport Agency (**the Agency**).

Of the parties NHIT, MPDC and KiwiRail wanted to be heard in support of their submissions. The Agency did not wish to be heard.

The NHIT submission was in opposition to the Plan Change, until a cultural and environmental effects assessment of the proposal has been prepared.

The MPDC submission was in support of the Plan Change, subject to amendments.

The Agency submission was in support of the Plan Change subject to amendments.

The KiwiRail submission was in support of the Plan Change subject to road and rail safety issues being addressed.

The summary of submissions was notified on 9 May 2018 with 23 May 2018 as the deadline for further submissions. One further submission, made by the Agency in support of the KiwiRail submission, was received. This submitter did not wish to be heard.

A summary of submissions and further submissions is attached as **Appendix A** to this report. Copies of the actual submissions can be found on MPDC's public website².

Following closure of submissions, Tatua consulted with submitters with a view to seek agreement on proposed changes to the Plan Change as notified, in order to resolve submitters' concerns.

The KiwiRail submission was subsequently withdrawn on 19 June 2018.

By 11 February 2019, agreement had been reached with the remaining submitters whereby all matters in dispute could be resolved through amendments to the Plan Change as notified. The submitters have confirmed that, subject to the changes to the DCP recommended in this report (i.e. the track changes shown in **Appendix B**), they no longer want to be heard.

The purpose of the upcoming meeting is for the Council to consider the Plan Change, the submissions received, and the amendments proposed to the notified version to resolve submitters' concerns, so that Council can make its decisions on submissions. Thereafter, Council's decisions will be publicly notified (as required under the RMA), thereby notifying parties of their right to appeal the Council's decisions to the Environment Court.

² See <https://www.mpd.govt.nz/district-plan/district-plan-review/134-uncategorised/3041-plan-change-52-development-concept-plan-for-milk-processing-factory-tatuanui>

Provided that the Council's decisions are not appealed, the Plan Change can be made operative. Once Council makes a decision on the plan change, weighting can be given to the changes, prior to it becoming operative.

The Plan Change will take legal effect from the operative date and from this date the DCP will be included in the District Plan, thereby completing the plan change process.

5. Plan Change documentation

The documentation lodged in support of the Request as publicly notified, comprise:

- Plan change request and statutory assessment;
- Appendix A: Proposed Development Concept Plan;
- Appendix B: Section 32 RMA Report;
- Appendix C: Landscape & Visual Assessment;
- Appendix D: Acoustic Report (Marshall Day Acoustics); and
- Appendix E: Transportation Report

A copy of the above mentioned documentation is available on the Council's website³.

The documentation includes an assessment that:

- Summarises the proposed plan change, the site, and the relevant background to the Request;
- Explains the proposed DCP, and provides a comparison between the proposed DCP provisions and the conditions of the site's existing resource consent;
- Assesses the proposal against the relevant statutory matters; and
- Provides a conclusion and summary of the assessment.

The appendices include specialist reports that:

- Summarises the proposed plan change;
- Describes the site and the receiving environment;
- Assesses the statutory requirements;
- Provides an assessment of environmental effects; and
- Details the consultation undertaken.

The specialist reports include strategies to avoid, remedy or mitigate the adverse effects of the future development of the site. The performance standards and matters of control/ discretion that are proposed to apply to the DCP have been informed by the mitigation strategies recommended in the specialist reports.

The documentation includes an assessment of the statutory requirements that Council need to address in considering the plan change request, including:

³ See <https://www.mpd.govt.nz/district-plan/district-plan-review/134-uncategorised/3041-plan-change-52-development-concept-plan-for-milk-processing-factory-tatuanui>

- The purpose of the RMA (i.e. the “Part 2 RMA assessment”);
- The relevant planning documents (Hauraki Gulf Marine Park Act, National Environmental Policy Statements and Standards, the Waikato Regional Policy Statement, the Waikato Regional plan, and the Matamata-Piako District Plan);
- Assessment of environmental effects (landscape, amenity, traffic, noise, odour and other discharges to air, infrastructure, and hazardous substances); and
- Analysis of the options, efficiency and effectiveness of the proposed plan change provisions (i.e. the Section 32 RMA evaluation).

This report will reference relevant sections of the documentation and will provide a summary of the parts that are particularly relevant to the assessment of the Plan Change.

In addition to the documentation referenced above, the following information pertaining to the part of the process subsequent to notification of the Plan Change is relevant:

- **Appendix A:** Summary of submissions and further submissions received in response to notification⁴.
- **Appendix B:** Recommended changes to DCP (track changes), and other consequential changes to the District Plan proposed as a consequence of the Plan Change.

The submissions, further submissions, and the amendments to the DCP recommended in this report in response to submissions are discussed below.

6. Submissions and further submissions

6.1 New Zealand Transport Agency

- **Submission**

The New Zealand Transport Agency (the Agency) submission relates to traffic effects of pedestrians crossing State Highway 26 from the western car park and addressing proposed Performance Standards 2.1(q), (s), (t) and (u).

The Agency’s submissions states that it is satisfied in general with the DCP but requests that:

- Vehicle access be designed in accordance with the NZ Transport Agency’s Planning Policy Manual; and
- That a pedestrian/goods underpass be provided under SH26.

Consequently, the Agency is in support of, and wants the Council to accept the Plan Change with amendments.

⁴ Copies of the actual submissions and further submissions are available on the Council’s public website.

- **Discussion**

The Agency's concerns in relation to pedestrians and traffic safety and access have been addressed through amendments to Performance Standards for Permitted Activities 2.1(q), (t) and (u) which encourage Tatua to design and locate the pedestrian underpass as close as practical to car parking areas and to install signage to encourage use of the same.

Suitable design parameters for vehicle access to the SH26 in terms of the NZ Transport Agency's Planning Policy Manual are specifically addressed to provide appropriate levels of traffic safety for entering and leaving the DCP access points.

The Agency also has supported the use of a Construction Traffic Management Plan (CTMP) as an appropriate mechanism to avoid, remedy or mitigate any adverse effects on traffic safety and efficiency.

These changes are minor and clarify the intent of the performance standards for permitted activities and are supported by Tatua and MPDC staff.

Lastly, I note that the Agency supports the possible extension of the flush median on SH26 (Performance Standard 2.1(s)).

Accordingly, the submission from the Agency and the resultant changes to the DCP Performance Standards for Permitted Activities are supported with the changes to Standards 2.1(q), (t) and (u) amended as shown in **Appendix B**.

6.2 Ngai Haua Iwi Trust (NHIT)

- **Submission**

Ngati Haua Iwi Trust's submission opposes the whole of the Plan Change on the basis that:

The DCP application cannot be assessed in isolation from other large scale developments within their rohe and that the preparation of a Cultural Assessment Report would assist in identifying any of the Trust's cultural and environmental issues associated with the DCP; and

Any future Tatua activities need to be referenced against the Ngati Haua Rautaki Taiao Plan.

- **Discussion**

Following the receipt of the submission, Tatua engaged with NHIT and provided sufficient clarification and detail for the NHIT to be able to undertake a cultural assessment report. This assessment included four recommendations under the general auspices of Rangitiratanga, Waahi Taonga and Kotahitanga and concluded that:

NHIT recognises that relationships are key to achieving positive environmental outcomes. To meaningfully participate in these processes and to realise cultural environmental values and

aspirations, it is important that relationships are affirmed and maintained with an approach that enduring and authentic (sic).

Ngāti Hauā Iwi Trust welcomes opportunities to participate in all forms of holistic development in relation to the Tatua Co-operative Dairy's Company expansion in Tatuani.

Accordingly the NHIT confirmed on 11 February 2019 that it no longer wished to be heard with regard to the DCP as it was satisfied that an accord had been reached with Tatua, however, it reserved its continued involvement in the RMA process and discussions with Tatua.⁵

6.3 Matamata-Piako District Council Staff

- **Submission**

Matamata-Piako District Council (MPDC) staff submitted in support of the Plan Change, subject to minor changes to the wording of the DCP provisions, notably the following changes shown in red text in the track changes on the DCP attached as **Appendix B**:

- Permitted activities changes to improve clarity including the deletion of day-care and recreation facilities;
- Performance standards for permitted activities relating height limitations, colour schemes, noise, earthworks, car parking and vegetation clearance to improve clarity;
- Matters of discretion – clarify the matters of discretion relating to the impact of any development on the wider environment, increase in signage, and emissions to air including dust.

- **Discussion**

The amended wording proposed in the MPDC submission serves predominantly to clarify the DCP provisions and does not materially change the intent of the provisions as notified. The amendments proposed by MPDC are generally supported and accepted by Tatua.

The MPDC submission questions the validity of permitting day-care and recreation facilities as a permitted activity as these have not been supported in either the DCP application or the transportation assessment. Tatua acknowledge this and supports their removal from the Permitted Activities list.

It is noted that should these activities wish to become established within the DCP they would have to go through the planning processes as set out in the District Plan.

Height limitations and colour schemes have been amended to clarify the wording and the application of the standards (Performance Standards (2.1(a) and (c))).

Following public notification of the DCP, Tatua gave further consideration to the implications of noise from their activities within the DCP and the NECB. As a consequence, Tatua suggested that they should only offer to treat any new dwelling or extension to the same that is a permitted activity rather than any dwelling that would require resource consent. The Council's noise expert agreed with this approach.

⁵ Email correspondence from Ngati Haua Iwi Trust to MPDC, dated 11 February 2019

Subsequently Performance Standard 2.1(f) (iii) has been deleted and replaced with a new standard as agreed between Tatua and the Council's noise expert. The subsequent changes to the standard have now clarified the intent of the standard and set an appropriate time frame for any upgrade of new or existing dwellings to meet the noise performance standards.

The earthworks standard (Performance Standard 2.1(n)) has been clarified to ensure that deposition of works material (dirt and loose material) is promptly removed from road carriageways so that it does not present a hazard to motorists. It is noted that this part of the submission is supported by the Agency in its further submission (refer section 6.1 of this report).

Car parking (Performance Standard 2.1(p)(ii)) has been amended following further discussion with Tatua's transportation expert with a car parking assessment being undertaken to clearly identify the visitor car parking requirements based on the size of the factory operation. It is understood that the amendment to 13 car parking spaces reflects the current availability of such car parking on site noting that all such car parking must be contained within the DCP and shall not be located within the road reserve. The latter is supported by the Agency in its further submission.

It is noted that there is a typographical error in Performance Standard 2.1(p)(ii) in that the reference to 2.1(p)(x) should refer to 2.1(p)(ix).

Accordingly, it is recommended that this correction be undertaken as it will not prejudice the outcome or intent of the wording of the Performance Standard.

Lastly Tatua has agreed that for traffic safety and unimpeded sight lines the vegetation located within the DCP on the corner of Brown Road and SH26 be maintained in accordance with the NZ Transport Agency State Highway guidelines. This amendment is supported by the Agency in its further submission.

The miscellaneous amendments sought by MPDC have been agreed to by Tatua and will be incorporated within the DCP before it is finally adopted by the Council and implemented as part of the Matamata-Piako District Plan.

6.4 KiwiRail Holdings Limited

Submission

KiwiRail initially raised concerns about the impact the DCP and its activities would have on the safety of the level crossing under its jurisdiction. KiwiRail indicated that a Level Crossing Safety Impact Assessment should have been provided as part of the DCP proposal to assist the Council in determining what effects the proposal may have on the level crossing and measures that could be put in place to mitigate any effects of future development.

It is agreed that the Plan Change as notified did not address the impact of the proposed development envisaged by the DCP on the safety and safe operation of the road/railway crossing in the vicinity of the site.

Subsequent to lodging the submission, Tatua provided further information to KiwiRail which enabled the submitter to accept that “...the 2017 Level Crossing Safety Impact Assessment (LCSIA) report prepared for the State Highway 27 Waitoa Level crossing (ALCAM ID 2559) does not require updating as a result of predicted traffic movements to and from the site. Based on this assessment KiwiRail does not wish to pursue its submission and/or appear at a hearing.”

KiwiRail withdrew its submission on 19 June 2018 and subsequently no further consideration has been undertaken of its submission.

I note that the New Zealand Transport Agency submitted a further submission on 23 May 2018 in support of the KiwiRail submission, however, as the KiwiRail submission was withdrawn, no further consideration can be taken of the Agency’s further submission as it relates to KiwiRail.

7. Proposed modification of the Plan Change

These proposed amendments to the notified version of the DCP as agreed to by all parties and detailed in the previous section of this report, are shown in the track changes version of the modified Plan Change attached within **Appendix B**.

The description below compares the Notified Version of the DCP with the modifications now proposed:

- **Sheet 1: Development Concept Plan**

Minor amendment to title of the DCP to state “Milk Processing Site”.

- **Sheet 2: Activity schedule**

Sheet 2 lists the Permitted, Controlled, Restricted-Discretionary, and Discretionary activities and part performance standards.

Modifications to the following are proposed:

1.1.1(d),
1.1.2(a)(xi),
1.1.3(a)(ii), (c) and (d).

Minor grammatical changes:

1.2(a),
1.3(a),
1.4(b).

- **Sheets 3, 4 and 5: Performance standards**

Sheets 3 – 5 set out the DCP's Performance Standards that all Permitted Activities must comply with.

Modifications to the following are proposed:

- 2.1(a), (i) and (ii),
- 2.1(c), (i) and (ii) plus clarification advice note,
- 2.1(f), (iii) and (iv),
- 2.1(n), (ii),
- 2.1(o), (i) and (ii),
- 2.1(p), (ii) and (ix) including typographical correction to (ii),
- 2.1(q) additional advice note,
- 2.1(u),
- 2.1(w),
- 2.1(x) – new standard relating to vegetation clearance to improve sight lines.

Clarifications to matters of discretion:

- General – (b),
- Bulk and location (a),
- Colour – (a),
- Odour – (b).

Miscellaneous changes to:

- 2.1(m), (i) and (ii),
- 2.1(t).

- **Sheet 6: Development Concept Plan – Height Control Plan**

Delete Attachment A from title.

- **Sheet 7: Development Concept Plan – Planting Plan**

Delete Attachment B from title,
Amend Key to include Development Areas 1-3 as shown on plan,
Delete “small crosses” within Planting Areas A and F as redundant.

- **Sheets 7, 8, 9 and 10: Planting Cross Sections**

Delete Attachment C from title.

- **Sheet 11 – Planting Schedule**

Delete Attachment D from title.

In regard to the modified DCP as described above, the following documents will be available to view at the upcoming Council meeting:

- Copies of the notices from submitters withdrawing their right to be heard, subject to the amendments as described above being accepted by Council; and
- A “clean version” of the modified DCP, including the track changes described above.

- **Consequential changes**

In addition to the changes to the DCP as outlined above, one consequential change to the Operative District Plan is also recommended.

This change is:

- **Planning Map 25:** For the purposes of transparency and ease of reference, it is proposed that Planning Map 25 be amended to show the DCP boundaries, the location of the NECB around the site and include the addition of the letters “DCP” within the site boundary.

The consequential changes as described above are shown in **Appendix B** attached to this report.

The merits of the proposed DCP and the modification of the Plan Change as set above are assessed in the next paragraph of this report.

8. Assessment

The RMA requires the Council to consider a number of matters when developing proposed plan changes. These requirements⁶ and staff’s assessment of the Plan Change as notified, the submissions received, matters raised by MPDC staff, and modifications to the Plan Change described in the previous paragraph, can be summarised as follows:

8.1 General requirements

RMA requirement 1

A district plan (change) should be designed to accord with, and assist the territorial authority to carry out its functions so as to achieve the purpose of the Act.

Assessment

The purpose of the RMA (as set out in Part 2) is to promote the sustainable management of natural and physical resources. The functions of territorial authorities (Section 31 RMA) are the

⁶ See the Environment Court’s First Interim Decision in *Long Bay-Okura Great Park Society Incorporated and Others v North Shore City Council* (Decision A078/2008).

establishment, implementation and review of objectives, policies and methods to achieve integrated management of land and natural and physical resources and to control the effects of the use, development, or protection of land.

The Plan Change itself does not introduce any new objectives. However, it supports a number of the objectives and policies of the District Plan.

An assessment of the relevant objectives and policies is included in the documentation that accompanied the Plan Change Request⁷. The assessment refers to the objectives and policies relating to “significant resource management issues”, “integrating land-use and infrastructure”, “amenity”, and “transportation”.

Based on the assessment, the Plan Change Request considers that the proposal recognises the need for expansion of an existing infrastructure in a manner that is coordinated and ensures the sustainable management of natural and physical resources while enabling people and communities to provide for their economic, social and cultural wellbeing. It further notes that the proposal is on a site that is appropriate for the use and can be managed to ensure any adverse effects are avoided, remedied or mitigated. Any adverse effects on the transport network or regionally significant infrastructure can be managed appropriately.

Staff agree that the proposal is consistent with the objectives and policies of the District Plan.

The Plan Change Request furthermore assesses the DCP and its associated rules (i.e. the Activity Schedule, Performance Standards, Matters of Control, Matters of Discretion and Landscaping Requirements).

The assessment notes that the DCP includes performance standards and matters of control/discretion relating to development, traffic, parking, loading, access, air emissions, visual effects, landscaping, signage, noise, vibration, lighting and glare, disposal of stormwater and wastewater, earthworks and the use/storage of hazardous substances.

Measures to address these matters and any adverse effects they may have on the wider environment have been fully assessed in the proposed DCP with the conclusion reached that the specific standards proposed and associated assessment criteria will ensure that any adverse effects are appropriately mitigated.

Staff agree with the above conclusion and are satisfied that the matters addressed by the DCP fall within the scope of the Council’s functions of controlling the effects of the use and development of land.

Section 32AA further evaluation

In addition, staff consider that the Plan Change modifications recommended in the previous paragraph will better assist the Council to carry out its functions so as to achieve the purpose of the RMA.

In particular, the changes proposed by MPDC assists in clarifying the DCP provisions and will provide certainty as to the implementation of the DCP requirements. Incorporating the changes

⁷ See the Statutory Assessment at <https://www.mpdc.govt.nz/districtplan/ProposedChanges/PPC52/Application.pdf>

proposed by the NZ Transport Agency will ensure the safe operation of the roading network and will therefore promote the integrated management of land-use and infrastructure.

RMA requirement 2

When preparing its district plan (change) the territorial authority must give effect to any national policy statement or New Zealand Coastal Policy Statement (section 75(3) RMA).

Assessment

The following National Policy Statements are currently in place:

- National Policy Statement on Urban Development Capacity
- National Policy Statement for Freshwater Management
- National Policy Statement for Renewable Electricity Generation
- National Policy Statement on Electricity Transmission
- New Zealand Coastal Policy Statement.

In addition, the sections of the Hauraki Gulf Marine Park Act 2000 that deal with the recognition and management of the Hauraki Gulf have, under the RMA, the same status as a national policy statement.

While the Tatua request does not include an assessment of the Plan Change under the Hauraki Gulf Marine Park Act, staff are satisfied that the measures proposed to control discharges to land will ensure that any effects on the matters set out in this legislation have been appropriately dealt with.

Staff are satisfied that none of the other national policy statements are particularly relevant to the assessment of the Plan Change.

RMA requirement 3

Every local authority and consent authority must observe national environmental standards (section 44A(7) RMA).

Assessment

It is considered that there are two National Environment Standards (NES) that would be applicable to the proposed DCP, namely the NES for Assessing and Managing Contaminants in Soil to Protect Human Health and the NES for Air Quality.

For the former, the NES for managing contaminants in soil falls to be considered a rule in the District Plan. Accordingly, any earthworks undertaken in support of the development will continue to be subject to the NES in parallel to the DCP rules.

The NES for air quality relates to the Waikato Regional Council's functions in regard to managing the discharge of contaminants to air and are not relevant to the Plan Change.

The other National Environmental Standards (i.e. the Standards for Sources of Drinking Water, Telecommunication Facilities, Electricity Transmission Activities, and Plantation Forestry) are not relevant to the proposed DCP request.

RMA requirement 4

When preparing its district plan (change) the territorial authority shall:

- a) have regard to any proposed regional policy statement (section 74(2) RMA);*
- b) must give effect to the operative regional policy statement (section 75(3)(c) RMA).*

Assessment

Tatua's request includes an assessment of the Plan Change under the Waikato Regional Policy Statement ("**RPS**"). The RPS provisions most relevant to the Plan Change are the protection of regionally significant infrastructure, the integration of land-use with infrastructure, and enabling the operation and development of regionally significant industry.

The assessment provided as part of the request considers that the proposed DCP is consistent with the above provisions as the development of the site in the manner proposed will reflect the important role that regionally significant industry and primary production plays in contributing to the economic, social and cultural wellbeing of people and communities.

The assessment concludes that "*The Tatua Co-Operative Dairy Company has a direct relationship with the management and continued viability of the surrounding dairy farming activities and provides economic benefits to the surrounding settlements*".

Staff agree with the above assessment and consider that the proposed DCP is consistent with the RPS.

Section 32AA further evaluation

Staff consider that the proposed modifications to the Plan Change will not change the intent of the provisions as notified. The NZ Transport Agency submission, if accepted, will ensure the safe operation of the State Highway network (identified in the RPS as "regionally significant infrastructure") is better protected. Therefore, the modifications improve the extent to which the Plan Change will to give effect to the RPS.

RMA requirement 5

In relation to regional plans:

- a) the district plan (change) must not be inconsistent with an operative regional plan (section 75(4) RMA); and*
- b) must have regard to any proposed regional plan on any matter of regional significance (section 74(2) RMA).*

Assessment

Tatua's request includes an assessment of the Plan Change under the provisions of the Operative Waikato Regional Plan ("**WRP**").

The assessment notes that the WRP "*provides regional guidance, standards and rules for management of many of the effects and activities likely to occur in the Tatua site*" and sets out

good practice for the management of stormwater discharges. It further states that the Regional Council will “in conjunction with territorial authorities, organisations, industry groups and individuals discharging stormwater, provide guidance to develop and implement good practices or appropriate codes of practice”.

The assessment reaches the conclusion that there are no inconsistencies between the Plan Change and the WRP as they relate to undertaking good practices in relation to stormwater and air discharges from the site.

Staff agree with the above conclusion noting that Development Area 3 has been specifically set aside for waste water and stormwater disposal and for the irrigation of waste water from the plant and its processes. This is further supported by Performance Standard 2.1(i) which sets out buffer areas within the site and Development Area 3.

In regard to the discharge to air of odour, it is noted that proposed Performance Standard 2.1(m)(i) of the DCP requires that “*There shall be no contaminants or particulate matter that has adverse effects on human health or causes objectionable effects beyond the boundary of the DCP.*”

The above standards need to be complied with by Tatua at all times. Non-compliance with the standards places Tatua in breach of the DCP provisions and the standard is able to be enforced by the Council and/or the Waikato Regional Council (who has primary responsibility for the control of discharges to air and to land).

Section 32AA further evaluation

Staff consider that the modifications to the Plan Change recommended in this report do not raise any additional issues with regard to consistency with the WRP.

RMA requirement 6

When preparing its district plan (change) the territorial authority must also (section 74(2) RMA):

- a) have regard to any relevant management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register; and to consistency with plans and proposed plans of adjacent territorial authorities;*
- b) take into account any relevant planning document recognised by an iwi authority; and*
- c) not have regard to trade competition.*

Assessment

Tatua’s request does not specifically address items (a) and (b) above.

With regards to item (a) the Waikato Regional Land Transport Strategy is considered to be a relevant document. Under the Strategy, the key consideration “*to have regard to*” in relation to the Plan Change, is the integration of land-use with the Region’s transport system.

The traffic assessment provided with the proposed DCP recognises the location of the Tatua facility in relation to both State Highway 26 (which it straddles) and its intersection with State Highway 27 to the east. Measures are proposed to ensure that the expanded operation will not impact on the safe and efficient operation of the state highway network and to ensure that any

effects of this expansion with regards to traffic generation, access and pedestrian safety are mitigated to appropriate levels.

Staff conclude that these measures indicate appropriate regard has been had to the Strategy.

The Plan Change Request does not reference any other strategies, entries in the Historic Places Register, or the plans of adjacent territorial authorities. Staff agree that there are no other strategies that are particularly relevant to the Plan Change. The site does not contain any items on the Historic Places Register.

It is noted however that the Oak trees located on the northern side of the DCP adjoining the railway line are scheduled in the District Plan under "Schedule 3: Outstanding or significant natural features, protected trees and other protected items" (#30). Measures to ensure their ongoing protection are included in the DCP provisions.

The Plan Change addresses site-specific issues. Therefore, staff consider that consistency with the plans of adjacent territorial authorities is not a relevant consideration in this instance.

Section 74(2A) requires councils to take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its contents have a bearing on the resource management issues of the district.

The Plan Change Request does not reference any of the iwi management plans.

However, since notification, Tatua has engaged with Ngati Haua who has subsequently prepared a Cultural Response Report relating to the Plan Change. The report states that the cultural response has been reviewed against the relevant iwi planning documents, particularly Ngati Haua's "Rautaki Taiao Environmental Plan". The report makes a number of recommendations, the implementation of which will ensure that iwi values are appropriately recognised. One of the recommendations involves an agreement to a joint Memorandum of Understanding (MOU) between Ngati Haua and Tatua. As Ngati Haua has now advised that they no longer wish to be heard it is assumed that the two parties have elected to implement the recommendations through a Memorandum of Agreement, outside of the DCP.

Staff are satisfied that the MoU proposed as a consequence of the Plan Change process will ensure that the DCP takes account of relevant iwi planning documents and will not conflict with the relevant iwi management plan.

Section 32AA further evaluation

Staff consider that the modifications to the Plan Change recommended in this report do not raise any further issues with regard to relevant management plans and strategies.

RMA requirement 7

A district plan (change) must state its objectives, policies and the rules (if any) and may state other matters (section 75(1) and 75(2) RMA).

Assessment

As noted previously, the Plan Change does not introduce new objectives and policies but relies on the District Plan's existing objectives and policies. Staff agree that the existing objectives and policies provide support for the Plan Change and that there is no need to introduce new or amended objectives and policies into the District Plan.

Staff are also satisfied that the Plan Change provides a comprehensive suite of new rules that, in turn, support a number of the District Plan's existing objectives (outcomes) and policies (strategies).

Section 32AA further evaluation

Staff consider that the modifications to the Plan Change recommended in this report do not raise any additional issues with regard to the requirement that the Plan Change must state its objectives, policies and rules.

8.2 Section 32 and Section 32AA evaluation

The RMA requirement is as follows:

RMA requirement 8

32 Requirements for preparing and publishing evaluation reports

(1) *An evaluation report required under this Act must—*

- (a) *examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
- (b) *examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—*
 - (i) *identifying other reasonably practicable options for achieving the objectives; and*
 - (ii) *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
 - (iii) *summarising the reasons for deciding on the provisions; and*
- (c) *contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*

(2) *An assessment under subsection (1)(b)(ii) must—*

- (a) *identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
 - (i) *economic growth that are anticipated to be provided or reduced; and*
 - (ii) *employment that are anticipated to be provided or reduced; and*
- (b) *if practicable, quantify the benefits and costs referred to in paragraph (a); and*
- (c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

32AA Requirements for undertaking and publishing further evaluations

(1) A further evaluation required under this Act—

- (a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and
- (b) must be undertaken in accordance with section 32(1) to (4); and
- (c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and
- (d) must—
 - (i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or
 - (ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.

Assessment

The Plan Change Request contains a comprehensive section 32 evaluation. The evaluation includes an assessment of three (3) alternative options:

- Option 1 – Retain the Development Concept Plan/Status Quo;
- Option 2 – Change the Development Concept Plan as requested; and
- Option 3 – Update the Development Concept Plan as part of the District Plan review.

The section 32 analysis concludes that Option 2 is the most appropriate option for the following reasons:

- Provides the greatest certainty to Council, Tatua, and its neighbours around existing and proposed uses of the site.
- The inclusion of assessment criteria and site-specific performance standards will ensure the effective management of environmental effects.
- This option also is the best fit in terms of addressing the issues that are driving the plan change.
- There are considerable monetary efficiencies to Council and ratepayers.

Staff agree with this conclusion.

The Plan Change Request highlights the environmental, economic and social benefits that will stem from providing for the future development of the site through the DCP, while ensuring the effective management of environmental effects through site-specific performance standards.

Staff agree that Option 2 is the most efficient and effective option. Staff are also satisfied that the analysis submitted in support of the Plan Change provides a level of detail that corresponds to the scale and significance of the proposal and meets the requirements of Section 32 RMA.

Staff consider that the modifications to the Plan Change proposed in this report, will further improve the efficiency and effectiveness of the provisions as will be discussed below.

Section 32AA further evaluation

Staff considered two options prior to recommending the modifications to the Plan Change as set out in this report, namely:

- Option 1 – Retain the Plan Change as notified;
- Option 2 – Accept the submissions and amend the Plan Change as notified by making the changes as shown in the attached track changes version (**Appendix B**).

Staff consider that Option 2 is beneficial because the amendments that the MPDC submission seek to include will ensure better clarification of the DCP provisions, and a higher level of certainty that the provisions are clearly understood and easily enforceable.

In addition, the changes that NZ Transport Agency seek to introduce will ensure the safe and efficient operation of the State Highway affected by the proposal.

8.3 Actual and potential effects

RMA requirement 9

In making a rule the territorial authority must have regard to the actual or potential effect of activities on the environment (section 76(3) RMA).

Assessment

Tatua's request includes an assessment of the effects of the Plan Change on the environment. The assessment is supported by various specialist studies attached as appendices to the request.

A summary of the findings of the specialists as documented in the Plan Change Request is as follows:

- Visual Amenity and Landscape effects

The Plan Change Request includes a specialist Visual and Landscape Assessment which considered the effects the DCP may have on the visual impact of further development of the existing Tatua site and the additional areas of land to be included in the PDCP.

Seen within the context of existing industrial development on either side of the State Highway located in a rural area of the district, the Plan Change Request concludes that *"Any potential visual effects from the proposed buildings, particularly on neighbouring properties and travelling vehicles will be mitigated through appropriate rules pertaining to setback, height restrictions and landscaping"* and *"Overall, it is considered that the potential visual effects of the PDCP will be minor and will be appropriately mitigated through staged landscaping of the site, restrictions on building setbacks and height"*.

- Traffic effects

The Plan Change Request includes a specialist Transportation Assessment that has considered the impact on the roading network, site access, parking, and loading.

Having regard to the specialist assessment, the Plan Change request comes to the conclusion that the *“...proposed private plan change can be safely and efficiently accommodated by the transport environment given the implementation of the recommendations provided in this report.”*

Such recommendations include:

“...that development be permitted up to a level of vehicle trip generation assessed and considered acceptable in this ITA (1,600 additional vehicle movements per day / 400 per hour) and identifies the following further recommendations:

- *Pedestrian underpass to provide a safe crossing of SH26 should staff car parking be provided on the western side of the road.*
- *Plan for safe pedestrian routes through the site as the factory is expanded to reduce pedestrian / vehicle conflict.*
- *Construction traffic management plan for any new construction generating more than 25 additional vehicle arrivals per day.*
- *Extension of the flush median on SH26 past the driveway to the south of the site should this driveway need to accommodate more than 10 right turning movements per day in future.*

Peer review of the Transportation Assessment by Council staff has not identified any significant disagreement with the above conclusion.

It is also noted that the New Zealand Transport Agency has submitted in support of the Plan Change and in particular the provision of the pedestrian underpass.

- Noise Effects

The Plan Change Request notes that the noise effects have been assessed by Marshall Day Acoustics and that the DCP includes a methodology to manage noise effects by means of the establishment of noise emission control boundaries (NECBs).

The Marshall Day assessment concludes that *“the site’s current operations do not comply with the acoustic standards in Section 5.2 of the District Plan for activities within the Industrial and Rural Zones.”* Further *“...the ambient noise generated by the adjacent roading network is a significant contributor to the noise generated in the environment and that the existing non Tatua owned dwellings will not experience any change in noise that they currently experience as a result of the PDCP. The assessment also concludes that the current and future operations are able to operate with minimal impact on the surrounding environment subject to compliance with a proposed Noise Emissions Control Boundary (NECB). This NECB and associated rules have been proposed into the plan change.”*

- Amenity and Safety Effects

The Plan Change Request has considered the potential effects of the DCP on amenity and any associated safety effects. The assessment notes that the site is currently operating as a milk processing facility under various consents and makes up part of the receiving environment. It concludes that *“...the proposed activities provided for under the PDCP are considered to be consistent with the existing amenity on the site and surrounding environment, and are not anticipated to give rise to any adverse amenity effects.”*

With regards to the management of existing hazardous substances it notes that these are permitted and maintained under existing consents. As such, *“...it is considered appropriate to apply performance standards in the PDCP that are consistent with the approach taken by the District and that storage of Hazardous substances shall be managed in accordance with the Hazardous Substances and New Organisms Act 1996 (HSNO). Any odour effects associated with the activity on the site will continue to be managed in accordance with the regional consents held for the site.”*

- Stormwater/Wastewater Effects

The Plan Change Request notes that consent was granted in September 2016 to construct and operate a dissolved air flotation wastewater treatment plant to process the wastewater generated from the Dairy Factory. As the site will develop in the future, the DCP identifies an area (Development Area 3) where facilities for the management of both stormwater and waste water can be accommodated.

The PDCP considers that *“as these will largely be ‘softer’ areas i.e. open space rather than structures; they also provide the benefit of acting as a buffer to adjacent properties.”*

Overall in relation to managing stormwater the DCP concludes that *“...the Regional Plan will continue to manage those aspects and compliance with the Regional Plan and MPDC Development Manual 2010, or obtaining resource consents, is the most appropriate mechanism rather than introducing controls through this plan change process.”*

- Loss of Productive Land

The Plan Change Request notes that part of the DCP is located on land currently zoned Rural and that the consolidation of all activities on one site will provide for efficiency and productivity gains. Due to the small size of the site and that its intended use to support the dairy industry it is concluded that *“overall the use of the site is considered to be productive in that it utilises a relatively smaller area of rural zoned land for the purposes of processing agricultural products, which is a direct result of productive landuse.”*

- Discussion

Staff generally agree with the effects assessment submitted in support of the Plan Change and consider that the DCP rules are the appropriate methods to manage the actual and potential adverse effects that could stem from development under the DCP.

With regard to odour effects, staff note that the DCP includes as a Performance Standard, a requirement that there must be no nuisance odour beyond the site boundary. While the current operations have not engendered any odour nuisances, staff concur that it would be prudent to ensure that nuisances are controlled.

Council staff had raised concerns about the effects of noise on those dwellings located within the NECB especially in relation to night time noise. A review undertaken by Council's noise specialist, Hegley Acoustic Consultants, raised similar issues and an amended noise performance standard was publicly notified. Subsequent to the notification of the DCP, the Matamata-Piako District Council submission requested a change in part of the noise performance standard. As a consequence of the submission and further discussions with the Council the authors of the PDCP

recommended a number of changes to the noise performance standard. The changes were reviewed by Council's noise specialist who supported the changes as set out in the tracked changes shown in Appendix B.

Council staff are now of the opinion that Performance Standard 2.1(f) will provide an appropriate measure to ensure that noise from the development site will be appropriately managed and any adverse effects upon the occupiers of dwellings within the NECB will be mitigated to acceptable levels.

The implementation of the traffic related measures have been supported by both staff and the Agency.

Section 32AA further evaluation

Staff consider that the amendments proposed to the DCP in this report are the appropriate methods to ensure that the actual and potential effects associated with the proposed development of the site can be avoided, remedied, or mitigated.

8.4 Part II RMA matters

RMA requirement 10

All decisions under the RMA are subject to Part II. Should there be a conflict between Part II matters, and other requirements of the RMA, then Part II prevails.

Assessment

Tatua's request includes an assessment of the Plan Change under Part II.

The assessment notes that Section 5 of Part 2 identifies the purpose of the Act as being the sustainable management of natural and physical resources. This means managing the use, development and protection of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being and health and safety while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

The assessment notes that the Act seeks to maintain and enhance amenity values 7(c), and improve the quality of the wider environment 7(f). Section 8 of the Act requires that the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) are taken into account.

Tatua's assessment of Part II matters concludes that:

"The proposed changes are considered largely an administrative change to allow for the intended growth of the site without having to carry out an application for resource consent for each parcel of growth. The proposed Plan change is considered to be consistent with and give appropriate effect to the statutory documents, other strategies and non-regulatory measures listed above. There are not considered to be any aspects of the listed documents that the proposed Plan change is inconsistent with."

Overall the assessment concludes that Council can be satisfied that the request to establish a DCP for the site will meet the purpose of the RMA, and that it will avoid, remedy or mitigate any adverse effects on the environment.

Staff generally agrees with the Part II assessment and conclusion as set out above.

Section 32AA further evaluation

Staff consider that the amendments to the DCP proposed in this report are consistent with Part II RMA. This is the case as the changes will improve certainty for both Tatua and the Council, improve the clarity and enforceability of the DCP provisions and enable safety effects on the rail crossings to be appropriately managed.

9. Conclusion and recommendations

Proposed Private Plan Change 52 – Tatua Co-operative Dairy Company's Proposed Development Concept Plan Change to the Matamata-Piako District Plan was requested by Tatua Co-operative Dairy Company Limited. The Plan Change seeks to revise a customised Development Concept Plan for the company's site located in the Tatuani, in order to provide more regulatory certainty for future development while ensuring that appropriate controls are in place to avoid, remedy or mitigate adverse effects. The site included in the Plan Change is partly in the Industrial Zone, and partly in the Rural Zone.

The Council accepted the Plan Change in 14 February 2018. Subsequently, the Plan Change was notified. In response to the notification, submissions were received from the New Zealand Transport Agency, Matamata-Piako District Council Staff, and Ngati Haua Trust. A submission was also received from KiwiRail Holdings Limited. However this submission has now been withdrawn and has therefore been disregarded.

The submissions that have not been withdrawn are in support of the Plan Change, subject to changes or subject to clarification. Matamata-Piako District Council Staff submission requests amended wording of the DCP provisions in order to improve clarity. The New Zealand Transport Agency sought assurances in relation to staff parking and pedestrian/vehicle access across State Highway 26. In a further cross submission the Agency supported all the Matamata-Piako District Council staff submissions. The Ngati Haua submission raised matters relating to a lack of appropriate consultation and of the need for a cultural values assessment to be undertaken.

Tatua has consulted with submitters on the matters of concern. The outcome of the discussions is that the Agency's concerns have been addressed through the amended wording as has the amended DCP wording requested by MPDC staff. The changes have been accepted by Tatua and are now reflected in the modified DCP discussed in this report. It is understood that Ngati Haua and Tatua have reached an accord through an agreed MOU.

As a result, the parties that originally wanted to be heard, have agreed that the modification of the Plan Change as set out in this report will resolve all matters in dispute. As such they have advised that they no longer want to be heard and there is no need for Council to hold a hearing.

Staff have reviewed the Plan Change Request and consider that the modified Plan Change as set out in this report meets the legislative requirements under the RMA and can be approved.

The plan-making process has now progressed to the stage where it is referred back to the Council for its decisions on:

- The submissions; and
- The outcome of the Plan Change request.

Staff's recommendations on the matters to be considered by Council are outlined below:

9.1 Submissions (Clause 10 of the First Schedule to the RMA)

- A.** *That pursuant to clause 10 the First Schedule to the Resource Management Act 1991 the Matamata-Piako District Council resolves to accept the submission in support of Private Plan Change 52 by the New Zealand Transport Agency, noting that the DCP provisions have, in response to its submission and the submissions by other parties, been modified by Council's decisions.*

Reason

- (i) *The Council is satisfied that Plan Change 52 as amended (see Appendix B) has appropriately assessed the traffic effects of the development envisaged under the DCP, on the state highway network.*

- B** *That pursuant to clause 10 the First Schedule to the Resource Management Act 1991 the Matamata-Piako District Council resolves to accept the submission in support of Private Plan Change 52 by Matamata-Piako District Council Staff and to modify the DCP as shown in Appendix B, in response to the submission.*

Reasons

- (i) *The amendments proposed in the submission will improve the clarity of the DCP provisions, without altering the intent of the provisions as notified.*

- C** *That pursuant to clause 10 the First Schedule to the Resource Management Act 1991 the Matamata-Piako District Council resolves to accept the submission in support of Private Plan Change 52 by Ngati Haua Iwi Trust, noting that the submission has been resolved through a Memorandum of Understanding between the submitter and Tatua without requiring modifications to the DCP.*

Reasons

- (i) *Ngati Haua and Tatua have reached an accord on matters of cultural significance to the iwi through the preparation of Memorandum of Understanding between the two parties.*

9.2 Decision on Plan Change 52 (Clause 29 of the First Schedule to the RMA)

That pursuant to clause 29 of the First Schedule to the Resource Management Act 1991 the Matamata-Piako District Council resolves to approve Private Plan Change 52 subject to the modifications shown in Appendix B.

Reasons

- (i) The amendments will assist the Council to carry out its functions so as to achieve the purpose of the Resource Management Act 1991.*
- (ii) The modification will ensure that the Plan Change aligns with the Operative Waikato Regional Policy Statements, and the Operative Matamata-Piako District Plan.*
- (iii) The changes are required to ensure that all of the actual and potential adverse effects on the environment are considered and that provisions are in place to ensure that the adverse effects are avoided, remedied, or mitigated.*
- (iv) The section 32 and section 32AA RMA evaluation and further evaluation have shown that the Plan Change as modified represents the most appropriate way to achieve the purpose of the Resource Management Act 1991.*
- (v) The Plan Change as modified by Council is in accordance with the purpose and principles of the Resource Management Act 1991.*