



# **Matamata-Piako District Plan**

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

### **Section 42A Report on: Section 32AA further evaluation, recommendation on submissions and proposed Plan Change**

16 January 2019

Ref: 160119

## Table of Contents

<b>1</b>	<b>Purpose of the report</b>	<b>3</b>
<b>2</b>	<b>Overview</b>	<b>4</b>
<b>3</b>	<b>Plan Change proposal</b>	<b>5</b>
<b>4</b>	<b>Process to date and the next steps</b>	<b>7</b>
<b>5</b>	<b>Plan Change documentation</b>	<b>9</b>
<b>6</b>	<b>Submissions and further submissions</b>	<b>10</b>
<b>7</b>	<b>Proposed modification of the Plan Change</b>	<b>17</b>
<b>8</b>	<b>Assessment</b>	<b>18</b>
<b>10</b>	<b>Conclusion and recommendations</b>	<b>29</b>

## 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 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 seeks 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 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

OCD, established in 2001 and currently the second largest global exporter of premium whole milk powders, is a privately owned dairy company with processing plants in Waharoa (Waikato), Wanganui (Manawatu) and Awarua (Southland).

The Waharoa site located in the Industrial Area off Factory Road has been processing milk and whey powders, cheese and other specialist dairy products under OCD's ownership since 2004. Over time, OCD has expanded its Waharoa land holdings to comprise approximately 14 ha of land located partly in the Industrial and partly in the Rural Zones (see Figure 1).

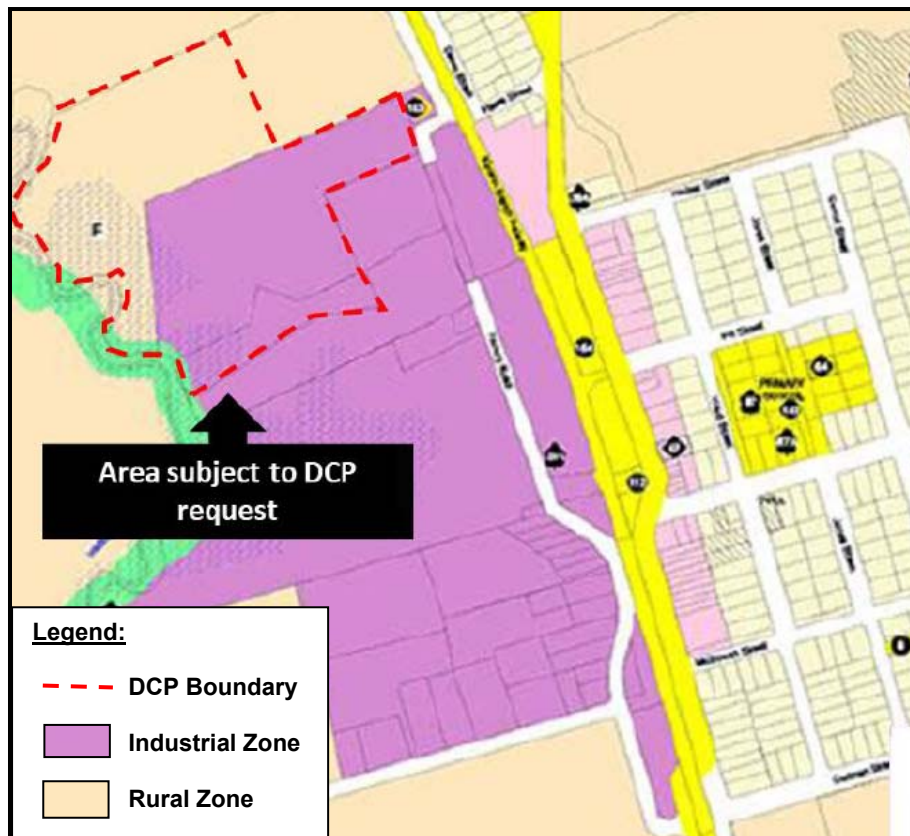


Figure 1: Location Plan



Under the District Plan, milk processing is not a Permitted Activity in the Industrial and Rural zones. Therefore, the existing facility operates under a suite of land-use consents granted by MPDC over the years as the plant expanded.

To date OCD has invested some \$250 million in developing a modern milk processing plant on the site. Currently the plant processes approximately 475 million litres of milk per year and employs more than 100 staff and contractors. OCD plans to more-than-double its current capacity over time to ultimately process up to 1.25 billion litres of milk per year. The planned expansion will require a further \$100 million investment and will provide employment for an additional 50 staff.

For OCD, the current regulatory regime, whereby new resource consents are required for every stage of the site's development, does not provide sufficient confidence to justify the multi-million dollar investment and long-term commitment to staff and local milk suppliers that will be required to expand the site to its full potential.

From MPDC's perspective, the current regulatory regime also has short-comings in that the piecemeal assessment of consecutive development stages at the site is inefficient and prevents an integrated, holistic, evaluation of the long-term consequences.

The DCP approach proposed by OCD is consistent with the way in which the District Plan currently manages most of the District's large processing sites including the Waitoa, Morrinsville, and Tātuanui dairy processing plants, the Inghams poultry processing site, and the Wallace and Greenlea meat processing sites.

To provide more regulatory certainty and efficiency for the future development of the site, OCD has applied for a private Plan Change. The Plan Change seeks to overlay the site's current zoning with a customised DCP. Under the proposed DCP, expansion of the site will be subject to site-specific development controls that reflect the actual activities and the management of their effects, rather than to rely on the more generic underlying zoning controls and the resource consents process.

### **3. Plan Change proposal**

OCD's Request seeks to establish a site-specific DCP for its Waharoa dairy processing site, within the District Plan.

The proposed DCP:

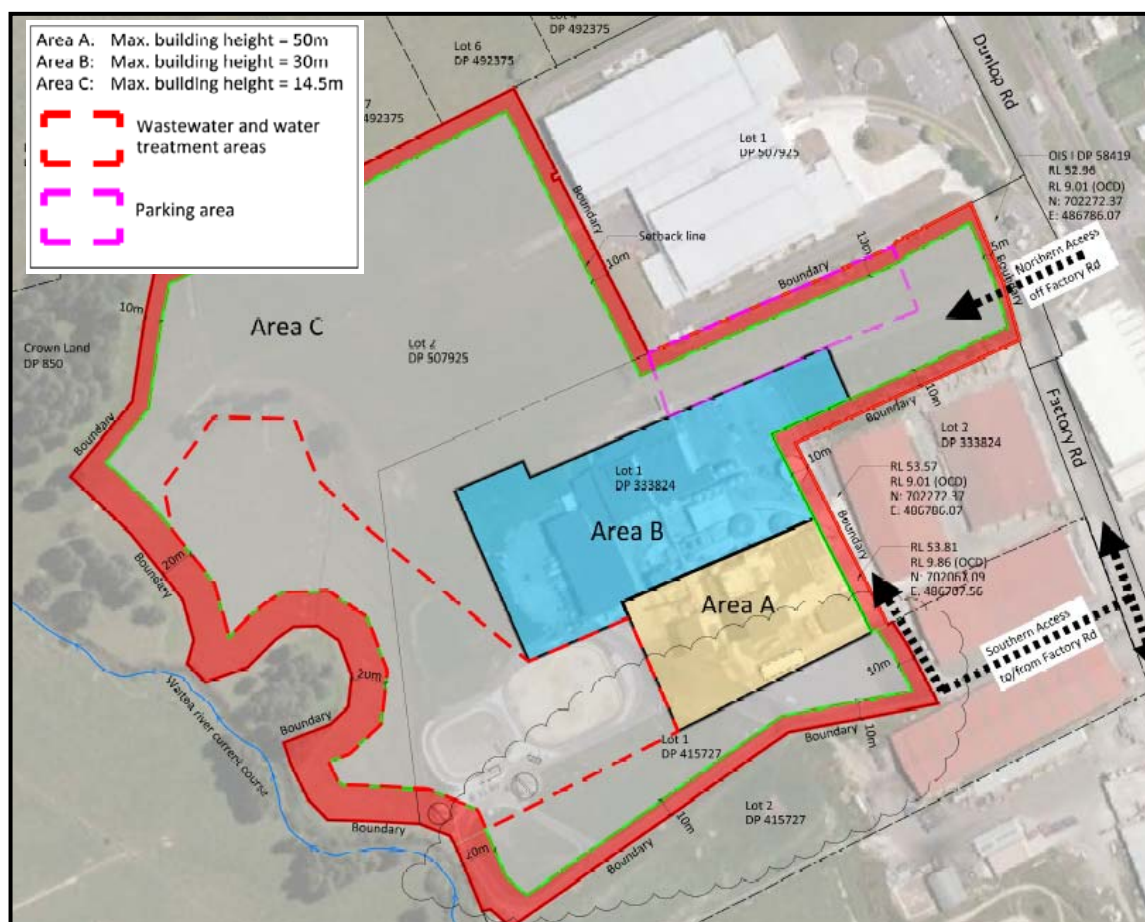
- Provides for a staged increase in milk production from the current 475 million litres per year up to 750 million litres as a Permitted Activity, up to 1 billion litres per year as a Controlled Activity, to an eventual maximum of 1.25 billion litres as a Restricted-Discretionary Activity;
- Enables consequential expansion/development of the existing facilities on the site by providing for future development areas (i.e. the areas where buildings, infrastructure, access and parking are envisaged);
- Rationalises site access;
- Sets building height control limits;
- Sets noise emission control boundaries (i.e. the boundaries subject to higher noise limits) that reflect current and future predicted noise emissions;

- Provides clarity and certainty on the relevant performance standards, matters of control, and discretion; and
- Aligns the updated DCP with the existing resource consent conditions.

The Plan Change, once operative, will enable the site to be managed 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**)<sup>1</sup> comprises seven sheets as follows:

- Sheet 1** (see Figure 2) shows the boundaries of the DCP, proposed development areas and associated height limits (Areas A – C), areas reserved for parking and water/wastewater treatment, building setbacks, and vehicle entrances.



**Figure 2: DCP – Sheet 1**

- **Sheet 2** contains the activity schedule and describes the activities that are permitted without resource consent, and the status (Controlled, Restricted-Discretionary, Discretionary and Non-Complying) of activities that will require resource consents.

<sup>1</sup> 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.

- **Sheets 3 and 4** describe the performance standards that all Permitted Activities are required to comply with.
- **Sheet 5** describes the matters to which the DCP has reserved control and restricted discretion for Controlled and Restricted-Discretionary resource consent applications.
- **Sheet 6** describes the site's landscaping requirements; and
- **Sheet 7** shows the location of the Noise Emission Control Boundaries (NECBs) being the lines that control permitted noise levels generated at the site.

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 MPDC planners held discussions with OCD regarding a suitable framework that would provide for the integrated resource management for the site, while ensuring an appropriate degree of certainty to justify sustained long-term investment in the future development and expansion of 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 consultant planner Colin Hopkins of planning consultancy 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. Thereafter, OCD's consultant worked collaboratively with MPDC planners to refine the draft. During the refinement of the initial draft, staff sought independent advice on traffic issues from transportation consultants Gray Matter Ltd.

Following further reiterative refinements of the draft, the final documentation was lodged on 8 August 2017 for Council's decision on the Plan Change request.

Council considered the matter at its meeting held on 23 August 2017 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 27 September 2017, with 26 October 2017 as the deadline for submissions. In response to the notification, MPDC received six submissions. The submissions were from Ngati Haua Iwi Trust ("**Ngati Haua**"), Powerco Limited ("**Powerco**"), Waharoa Park Ltd ("**WPL**"), Matamata-Piako District Council Staff ("**MPDC**"), Kiwirail Holdings Ltd ("**Kiwirail**") and the New Zealand Transport Agency ("**the Agency**").

Of the parties Ngati Haua, WPL, MPDC and Kiwirail wanted to be heard in support of their submissions.

The Ngati Haua submission was in opposition to the Plan Change, requesting that the Council should decline the Plan Change or, alternatively, to provide further information and opportunity for consultation with iwi.

The Powerco submission was neutral to the Plan Change, seeking assurance that the company's electricity assets will be protected.

The remaining four submissions were in support of the Plan Change, subject to amendments.

The summary of submissions was notified on 29 November 2017 with 13 December 2017 as the deadline for further submissions. One further submission, made by the Agency in support of the Kiwirail submission, was received.

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 website<sup>2</sup>.

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

On 15 June 2018, Ngati Haua confirmed via email that it wished to withdraw its submissions.

By 12 November 2018, 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.

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:

- Statutory Assessment including an Assessment of Environment Effects

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<sup>2</sup> See <http://www.mpd.govt.nz/component/content/article/105-news-a-events/news-a-have-your-say/2964-plan-change-51-development-concept-plan-for-milk-processing-site-waharoa?Itemid=647>

- Appendix 1: Proposed Development Concept Plan
- Appendix 2: Applicant's Statement – Open Country Dairy
- Appendix 3: Landscape & Visual Assessment: MGLA Landscape Architects
- Appendix 4: Traffic Assessment: Traffic Design Group
- Appendix 5: Noise Assessment: Hegley Acoustics
- Appendix 6: Stormwater and Infrastructure Assessment – S&L Consultants
- Appendix 7: Indicative Master plan
- Appendix 8: Copy of Current Resource Consent: 102.2013.10649
- Appendix 9: Certificate of Title
- Appendix 10: Certificate of title – Private portion of Factory Road
- Appendix 11: Consultation with NZTA
- Appendix 12: Landscaping Plan

A copy of the above mentioned documentation is available on the Council's public website<sup>3</sup>.

The documentation includes a comprehensive 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 provide an assessment of:

- Landscape and visual effects;
- Traffic effects;
- Noise effects; and
- Effects relating to the provision of infrastructure and stormwater disposal.

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:

- 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);
- Analysis of the options, efficiency and effectiveness of the proposed Plan Change provisions (i.e. the Section 32 RMA evaluation);

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<sup>3</sup> See <http://www.mpd.govt.nz/component/content/article/105-news-a-events/news-a-have-your-say/2964-plan-change-51-development-concept-plan-for-milk-processing-site-waharoa?Itemid=647>

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 notification<sup>4</sup>.
- **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 and specifically the traffic effects on the intersections of Link Road and Hawes Street with State Highway 27.

The Agency's submissions states that it is satisfied that:

- the traffic volumes expected as a result of future development in accordance with the proposed DCP have been assessed; and
- that the assessment shows that the capacity of the two State Highway 27 intersections serving the site is sufficient to cater for the traffic projected to be generated by the expansion of the factory.

Consequently, the Agency is in support of, and wants the Council to accept the Plan Change without any amendments.

- **Discussion**

It is agreed that the transportation assessment submitted in support of the Plan Change has appropriately assessed the traffic volumes expected as a result of future development provided for under the DCP.

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<sup>4</sup> Copies of the actual submissions and further submissions are available on the Council's public website.

The assessment shows that the capacity of the two state highway intersections serving the site is sufficient to cater for the traffic projected to be generated by the expansion of the factory.

The DCP makes provision, as a matter for discretion, for the actual traffic generation to be reviewed over time and for further mitigation measures to be required should future development impact on the road network including state highways.

Overall OCD's transportation assessment reaches the conclusion that the *"proposed additional activities at the OCD factory....can be established with no more than minor effects on the safe and efficient operation of the road network"*.

An independent review of the transportation assessment submitted in support of the Plan Change was undertaken for the Council by transportation engineers Gray Matter Ltd. The review is generally accepting of the findings of OCD's transportation assessment. Most the recommendations of the review have been implemented through changes to the DCP as discussed later in this report.

No changes to the Plan Change as notified are recommended, or required in response to the Agency's submission.

## 6.2 Powerco Limited

### • Submission

Powerco Limited (Powerco) is the electricity network provider for the site. Powerco has made two submissions on the Plan Change. The submissions relate specifically to the Company's electricity assets, and the security of electricity supply to the site.

Both Powerco submissions are neutral to the Plan Change, but Powerco wants to ensure that its electricity assets are appropriately protected and provisions are included to enable the ongoing development, operation, maintenance and upgrading of its electricity distribution network. To this end, Powerco wants the Council to take the following matters into account when the Plan Change is considered:

- Major changes to ground level: Changes to ground level in the vicinity of underground and above ground utilities should be minimised and/or the relevant utility provider should be consulted.
- Location of new buildings: Developers should be encouraged to use the "Dial Before U Dig" service ([www.beforeudig.co.nz](http://www.beforeudig.co.nz)) before undertaking works in proximity to underground assets.

The two submissions are the same, except that the initial Powerco submission wanted easements in gross to be registered to protect the existing electricity cables that traverse the OCD site. However, the second (replacement) submission requests that this requirement be deleted as the cables are owned by OCD, and therefore not Powerco assets.

Therefore, the Powerco submission no longer seeks any changes to the Plan Change as notified.



- **Discussion**

It is noted that the location of the assets and sub-transmission lines owned by all electricity utility providers (including Powerco) are already identified on the Operative District Plan Maps. In addition, the preamble to “Part C: Maps and Plans” in the Operative District Plan<sup>5</sup> already encourages developers to consult Powerco when undertaking works in proximity to sub-transmission lines and to obtain accurate information from the *beforeudig* website.

It is therefore considered that the Council can be satisfied that the matters outlined in the Powerco submission as described above, have been taken into account and are already appropriately addressed in the Operative District Plan, without the need for any changes to the DCP as notified.

### 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 blue text in the track changes on Sheets 2, 4, and 5 of the DCP attached as **Appendix B**:

- Permitted activities c) – delete “medical rooms, child care centres and recreational activities for staff”.
- Performance standard 1.1.12 – delete requirement for front yard landscaping.
- Performance standard 1.1.14 b), d) and f) – clarify the requirement for staff car parking, loading, and parking formation and add a new performance standard (h) for assessable parking.
- Performance standard 1.1.15 – include a requirement for vehicle access to be designed by qualified engineer.
- Matters of control 1.2.3 a), c) and e) – clarify the matters of control relating to staff parking, loading space, and traffic generation.
- Matters of discretion 1.3.2 a), c), e) and f) – clarify the matters of discretion relating to staff parking, loading space, and traffic assessment and generation.

In addition MPDC’s staff submission notes that a number of land owners/occupiers in the Waharoa industrial area (including OCD) rely on the private section of Factory Road as a transportation link or strategic connection. The submission expresses concerns regarding the road surface and pavement strength of the private road given the projected increase in heavy vehicle movements envisaged under the Plan Change.

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<sup>5</sup> See [http://www.mpdcc.govt.nz/index.php?option=com\\_content&view=article&layout=view&id=2645](http://www.mpdcc.govt.nz/index.php?option=com_content&view=article&layout=view&id=2645)

- **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 supported by OCD.

The concern expressed in the MPDC staff submission regarding the formation and status of the private section of Factory Road is noted.

However, the traffic safety and efficiency effects of future development envisaged under the DCP have been considered in the transportation assessment (TA) submitted by OCD in support of the Plan Change. In regard to the whole of the Factory Road Corridor (including the private road section), the TA states that the development envisaged under the DCP (subject to implementation of the DCP provisions) *“is expected to have less than minor effects on the continued safe and efficient operation of traffic on this road”*.

The Gray Matter transportation review undertaken on behalf of MPDC has commented that OCD holds easements for access across the private section of Factory Road, but has questioned whether *“it would be desirable for these [easements] to clearly articulate responsibilities for [road formation] condition monitoring, maintenance and renewal, and a complaints procedure for users”*. In addition, the review has questioned whether it would *“be desirable for Council to enter in to a Private Developer Agreement that allows cost-recovery by Council for any maintenance they complete on the privately owned section of Factory Road”*.

It is acknowledged that Factory Road is a strategic link, connecting the two State Highway 27 intersections which serve the Waharoa industrial area. It is also acknowledged that the severance of the corridor by the intervening section of private road is not optimal.

However, the OCD site, the sections within the WPL subdivision and most of the other properties in the Waharoa industrial area have right of way easements that entitle them to unencumbered access over the private section of Factory Road. As such, there is a high level of certainty that the continuation of the strategic link via the full length of the Factory Road corridor can be relied on, at least for the majority of the Waharoa industrial properties that have registered easements over the private way.

It is also acknowledged that the formation standard of the private road section is not optimal and that maintenance of the formation could become a contentious issue, given the large number of easement holders. However, the rights, responsibilities, and liabilities for maintenance are set out in the terms of the registered easement documents. Legally, the Council does not have a liability to contribute to maintenance, although it is acknowledged that it is in Council’s interest that the private roadway must be well maintained in order to ensure the effective functioning of the Factory Road corridor.

Ultimately, it is considered that the severance of the Factory Road corridor by the section of private roadway is beyond the scope of this Plan Change and cannot be solved by this Plan Change alone, because it affects the whole of the Waharoa industrial development.

As such, and given that the proposed OCD development is not anticipated to result in a detrimental impact on the private section of roadway, it is considered appropriate that the long-term future of the private roadway and options for ensuring its maintenance be deferred to be considered in an integrated context as part of Plan Change 49 that will deal with the whole of the Waharoa township area.

It is understood that MPDC staff are generally in support of the suggested approach whereby the issue of the private section of Factory Road will be revisited as part of the Plan Change 49 process.

#### **6.4 Waharoa Park Limited**

- **Submission**

Waharoa Park Limited (WPL) is the developer of the industrial-style subdivision located along Dunlop Road and Mowatt Street, to the north of the Plan Change site. The WPL subdivision is currently only partly developed.

WPL's submission supports the Plan Change subject to the Council:

- ensuring that the assessment of infrastructure effects attributable to the Plan Change, has taken into account the impact of the previously consented WPL subdivision when developed to its full capacity; and
- recognising the prior mitigation works previously implemented and funded by WPL to cater for the full development potential of the WPL subdivision.

- **Discussion**

Except for the use of the road network, the OCD site and the WPL subdivision are both largely self-sufficient in terms of infrastructure provision. Therefore, the WPL submission is in essence seeking assurance that the traffic effects of proposed development under the DCP has taken into account future traffic volumes that could result when the WPL subdivision has been developed to its full potential.

In order to resolve WPL's concerns, traffic consultants Stantec (formerly TDG) has revised OCD's traffic modelling as submitted in support of the Plan Change, to include the projected traffic volumes for the WPL subdivision when developed to full capacity.

Upon completing the revised modelling, traffic consultant Will Hyde on behalf of Stantec has advised that:

*"I can confirm that including the traffic expected from full development of Waharoa Park in both the baseline and 'with Open Country expansion' scenarios results in effects of the same level as those previously assessed, and the conclusion reached in our TA remains unchanged, i.e. no more than minor effects on the safe and efficient operation of the road network."*

WPL's consultant has confirmed that the above findings of the revised traffic modelling have resolved this submitter's concerns.

With the results of the revised traffic modelling now formally documented in Council's records relating to this Plan Change (see MPDC Doc #2101790), it is accepted that no further relief or changes to the DCP as notified is sought by WPL in response to its submission.

## 6.5 Ngati Haua Iwi Trust

- **Submission**

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

- has not taken into account Maori cultural values; and
- that further development of the site will lead to further pressures on natural resources and present a threat to the *mauri* of the area.

Ngati Haua's submission wants the Council to decline the Plan Change, or if not declined to require that further information be provided and that further opportunity for consultation with iwi and more time to consider an appropriate response to the Plan Change, be allowed for.

Subsequent to making the submission, OCD and Ngati Haua have come to an agreement whereby Ngati Haua has formally withdrawn its submission<sup>6</sup>, and have elected to address its concerns through a Memorandum of Agreement outside of the Plan Change process.

Therefore, Ngati Haua's submission can be disregarded and is not addressed further in this report.

## 6.6 Kiwirail Holdings Limited and further submission in support by the New Zealand Transport Agency

- **Recommendation in regard to late submission**

Kiwirail Holdings Limited's (Kiwirail) submission was received by Council on 6 November 2017, on the seventh working day following the close of submissions on 26 October 2017.

The Council has the discretion under section 37 RMA to accept the late submission, after taking into account:

- The interests of any person who, in its opinion, may be directly affected by the extension;

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<sup>6</sup> See letter of withdrawal at <http://www.mpd.govt.nz/component/content/article/105-news-a-events/news-a-have-your-say/2964-plan-change-51-development-concept-plan-for-milk-processing-site-waharoa?Itemid=647>

- The interests of the community in achieving adequate assessment of the effects of the Plan Change; and
- Its duty under section 21 RMA to avoid unreasonable delay.

Staff recommend that the late submission can be accepted, for the following reasons:

- The only person affected by the extension is OCD. OCD has reached agreement with the Kiwirail based on the relief sought in the late submission. Therefore OCD has accepted the late submission.
- The acceptance of the late submission will enable the relief sought by Kiwirail to be included in the modified Plan Change. Therefore the interests of the community will be better served by acceptance of the late submission.
- The submission was received prior to notification of the summary of submissions and as such has not caused a delay in the processing of the Plan Change.

In view of the above recommendation, Kiwirail's submission and the relief sought have been taken into account and are discussed below.

- **Submission and further submission**

Kiwirail's submission relates to the safety risks and safe operation of the two road/railway crossings in the vicinity of the site (i.e. the level crossings in Hawes Street and State Highway 27) that could be affected by the increase in traffic associated with the increased production at the OCD factory envisaged under the Plan Change.

Kiwirail's submission supports the Plan Change subject to safety issues at the road/rail crossings being assessed and addressed.

Kiwirail wants the Council to require that OCD undertake an assessment of the impact of future development on the safety of the level crossings under different development thresholds, and to require that appropriate mitigation measures be implemented (see the Summary of Submissions in **Appendix A** for further details).

The Transport Agency has made a further submission, supporting the Kiwirail submission in its entirety.

- **Discussion**

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 two road/railway crossings in the vicinity of the site.

To address this deficiency, OCD commissioned a Level Crossing Safety Impact Assessment in March 2018. The Assessment recommended that additional safety measures be implemented at the Hawes Street Crossing.

To ensure the implementation of the measures, it is recommended that changes be made to the DCP's Performance Standards and Matters of Control. The proposed amendments are shown in red text in the tracked changes version of the DCP attached as **Appendix B**. Kiwirail has confirmed that the proposed amendments as shown in **Appendix B** resolves its concerns in full.

## 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**

No modifications are proposed to Sheet 1.

- **Sheet 2: Activity schedule**

Sheet 2 lists the Permitted, Controlled, Restricted-Discretionary, and Discretionary activities. The only modification proposed on Sheet 2, is deletion of "medical rooms, childcare centres and recreational activities for staff", from Clause c).

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

Sheets 3 – 4 set out the DCP's Performance Standards that all Permitted Activities must comply with.

The following modifications to Sheet 4 are proposed:

- Deletion of Performance Standard 12 (Front yard landscaping).
- Performance Standard 14 (Car parking, loading, fleet parking, and formation and manoeuvring) - Amendments to Clauses b) and f), and inclusion of a new Clause h).
- Performance Standard 15 (Access) - Amendments to Clauses c) and inclusion of a new Clause d).

- **Sheet 5: Matters of control and discretion**

Sheet 5 sets out the matters over which the DCP has control and discretion when resource consents are sought for respectively Controlled and Restricted Discretionary Activity resource consents.

Minor modifications, as shown in tracked changes in **Appendix B**, are proposed to the wording of the Matters of Control in Clause 1.2.3 a), c), and e). In addition, minor amendments are also proposed to the Matters of Discretion in Clauses 1.3.2 a), c), e) and f). A new Clause 1.3.2 g) is also proposed.

- **Sheet 6: Landscaping requirements**

No alterations are proposed to Sheet 6.

- **Sheet 7: Noise Emission Control Boundary**

No alterations are proposed to Sheet 7.

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, two consequential changes to the Operative District Plan are also recommended.

These changes are:

- **Schedule 5 to the District Plan:** This Schedule lists the sites that are subject to a Development Concept Plan. It is recommended that Schedule 5 be amended to include the title of this DCP and the legal description of the properties that are subject to the DCP provisions.
- **Planning Map 31:** For the purposes of transparency and ease of reference, it is proposed that Planning Map 31 be amended to show the DCP boundaries, the location of the outermost Noise Emission Control Boundary (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 requirements<sup>7</sup> 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:

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<sup>7</sup> 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).



## 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 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 Request<sup>8</sup>.

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 reaches the conclusion that *“no changes are considered necessary to the objectives and policies or general rules. The proposed DCP is considered to be able to operate in accordance with the structure of the District Plan, which currently provides for the operation and management of industrial activities of the nature consented on the site, and to the extent proposed by the DCP”*.

Staff agree with the above conclusion.

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, and the use/ storage of hazardous substances.

The assessment reaches the conclusion that *“the proposed DCP seeks to provide the scope for an appropriate built form that reasonably relates to the appropriate and efficient use of the site as a milk processing facility”* whereas *“the general provisions of the District Plan as they relate to industrial activities are not considered to provide the most practical or efficient limits for controlling the reasonable form of industrial activities on the site”*.

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<sup>8</sup> See the Statutory Assessment at <http://www.mpd.govt.nz/component/content/article/105-news-a-events/news-a-have-your-say/2964-plan-change-51-development-concept-plan-for-milk-processing-site-waharoa?Itemid=647>

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 proposed by Kiwirail will ensure the safe operation of the level rail crossings 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.

The OCD request includes an assessment of the Plan Change under the Hauraki Gulf Marine Park Act and concludes that *"the proposed DCP is not anticipated to give rise to any adverse effects on the Hauraki Gulf, and does not conflict with the recognition of the national importance or management of the Gulf"*. Staff agree with this conclusion.

The NPS on Urban Development Capacity came into effect after the request was received, and have some relevance to the Plan Change. The objectives and policies of the NPS that are relevant to the Plan Change seek to ensure that adequate and appropriately zoned and serviced housing and business land development capacity exist within urban areas, at any point in time. The Plan Change is considered to be consistent with the policy direction sought by the NPS on Urban Development Capacity because the DCP will identify adequate land with the appropriate development controls to serve the future needs of OCD's milk processing facility.

Staff are satisfied that the Plan Change will give effect to the NPS on Urban Development Capacity and 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**

The Plan Change Request has considered the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health and the National Environmental Standard for Air Quality.

OCD's assessment notes that the NES for managing contaminants in soil will continue to apply to the site, 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**

OCD'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 reaches the conclusion that "*enabling a DCP to be established for the activity gives effect to the RPS direction to co-ordinate and provide the appropriate provisions for the development of a regional significant industry*" and that "*the proposed request for a plan variation is considered to be consistent with the direction and objectives and policies, and therefore gives effect to the RPS*".

Staff agree with the above assessment.

**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 proposed new requirement to consider safety measures at the railway level crossings will assist in ensuring that the rail network, identified in the RPS as "regionally significant infrastructure" is better protected. Therefore, the modifications improve the extent to which the Plan Change will 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**

OCD'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 direction for the use, development and protection of natural and physical resources in the Waikato Region, and provides for the implementation of the strategic framework set out in the RPS"*.

In addition the assessment notes that the site holds a number of resource consents under the WRP for the discharges from the factory to land, air and water.

The assessment reaches the conclusion that there are no inconsistencies between the Plan Change and the WRP.

Staff agree with the above conclusion. In regard to the discharge to air of odour, it is noted that proposed Performance Standard 5 of the DCP requires that *"the management of activities shall ensure that there is no odour nuisance at or beyond the boundary of the property"*.

The above standard needs to be complied with by OCD at all times. Non-compliance with the standard places OCD 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).

### **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

OCD's request includes an assessment of the Plan Change under the Waikato Regional Land Transport Strategy. 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. In this regard, the Plan Change Request notes that *"the scope of activities provided for by the DCP is anticipated to be able to be managed so that any potential adverse effects on State Highway 27 are appropriately mitigated or avoided"*. Staff agree with this conclusion and considers that the Plan Change has had appropriate regard 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.

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.

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

However, since notification, OCD 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. Ngati Haua and OCD 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.

## 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 four alternative options:

- Option 1 – Status Quo (Do Nothing);
- Option 2 – Await a Council initiated update of the District Plan;
- Option 3 – Relocate to an Alternative Site; and
- Option 4 – Apply for a Plan Change to introduce a Site Specific DCP for the Site.

The Plan Change (Option 4) as outlined previously demonstrates the benefits over the other options in terms of the objective of providing for orderly and sustainable development, while avoiding, remedying, or mitigating adverse effects.

In summary, the benefits of Option 4 are that it provides for future growth, provides certainty to both OCD and neighbouring land owners, enables the efficient use of the site, and ensures that adverse effects are addressed through targeted provisions.

The Plan Change Request reaches the conclusion that *“the option of pursuing a change to the MPDC District Plan to establish a DCP for the site is considered to be the most efficient, practical and cost-effective option. Importantly, it provides a higher level of certainty for OCD, takes advantage of an existing industrial location, and enables the future development of the site in a timely and integrated manner”* and that Option 4 *“will continue to provide employment options for Waharoa and the surrounding area”*. 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 4 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 in part, 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 Kiwirail seek to introduce will ensure the safe and efficient operation of the rail crossing 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**

OCD's request includes a comprehensive 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:

- **Amenity effects**

Seen within the context of existing surrounding industrial development, the Plan Change Request concludes that *"the proposed activities provided for under the DCP 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"*.

- **Effects arising from built form**

The Plan Change Request has considered potential effects arising from shading and visual effects. The assessment notes that the DCP includes a landscape mitigation strategy and a number of performance standards and matters of control/discretion to avoid, remedy, or mitigate adverse visual and landscape effects.

The assessment comes to the conclusion that *"the range of visual effects associated with...the development...can be accommodated and will not have any unacceptable visual effects on the surrounding environment. It is considered that the proposed mitigation strategy has been suitably incorporated in to the matters for control and performance standards so that any adverse effects are managed appropriately"*.

In addition it is noted that Civil Aviation was advised of the Plan Change and did not raise any concerns with regard to potential effects of the proposed building height on the flight paths of the Waharoa Aerodrome.

- 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 *“range of effects associated with....the development...can be accommodated and will not unreasonably impact on the safe and efficient operation of the road network. Furthermore, suitable matters of control and discretion are included, along with performance standards to ensure that any adverse traffic effects can be managed appropriately”*.

An independent peer review of the Transportation Assessment on behalf of the Council has not identified any significant disagreement with the above conclusion. Furthermore, the New Zealand Transport Agency has submitted in support of the Plan Change and has not raised any issues of concern.

- Effects on stormwater

The Plan Change Request includes a specialist stormwater methodology and effects assessment.

The specialist assessment *“has demonstrated that the system can manage the proposed expansion enabled by the DCP and can continue to operate in accordance with the consents held with Waikato Regional Council. As such, the expansion is not anticipated to give rise to any adverse effects on stormwater. Performance standards require the stormwater to be via the existing wetland as shown on DCP, and managed in accordance with the MPDC Development Manual”*.

- Noise effects

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

In relying on the expert noise assessment, the Plan Change Request comes to the conclusion that there will be *“no adverse noise effects, and that through the implementation of the NECB and the proposed noise limits that the outcome achieved with respect to the management of noise effects on the site will be consistent with those anticipated for similar activities under the MPDC District Plan”*.

- Odour effects including odour from wastewater

In regard to odour effects, The Plan Change Request notes that:

*“Primarily any odour effects are anticipated to arise from the operation of the energy centre and from the management of discharges of treated wastewater. These activities are all subject to compliance with the regional consents held with the Waikato Regional Council. 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”*.

- Effects associated with hazardous substances

In regard to the storage and use of hazardous substances, it is noted that the DCP includes a Performance Standard that requires compliance with the HASNO Act and the regulations made under the Act.

The Plan Change Request notes that any future earthworks on the site, where there is the potential for disturbance of contaminated soil, will be subject to resource consent under the NES for Assessing and Managing Contaminants in Soil to Protect Human Health (2011).

- 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. Nuisance odour beyond the site boundary, as has occurred in the past, is not authorised by the proposed DCP. OCD will need to take such measures as may be necessary to ensure that nuisance odour effects do not spread beyond the site boundary. Failing this, OCD will be in breach of the DCP rules and the Council and/or the Waikato Regional Council will need to enforce compliance with the standard.

### **Section 32AA further evaluation**

Staff consider that the DCP with the amendments proposed 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**

OCD's request includes a comprehensive 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 considers that section 6 is not particularly relevant, but identifies the following the section 7 matters that are relevant to the Plan Change:

- The efficient use of resources; and
- The maintenance/ enhancement of amenity values and the quality of the environment and:

OCD's assessment of Part II matters concludes that:

*"The proposed Plan Change to introduce a DCP for the site will assist Council in achieving the purposes of the Act. Fundamentally, this Plan Change request to establish a DCP for the site enables the comprehensive and integrated use and development of the Factory Road site.*

*Through enabling a site specific planning framework to manage the increase in productivity of the existing milk processing facility will provide certainty for investment to OCD, and will in turn have a direct positive contribution to the social, economic and cultural wellbeing of the local community through providing access to employment opportunities, whilst also contributing to the efficient use and development of industrial land.*

*This Plan Change request to establish a DCP for the site will assist the Council to achieve the purpose of the Act...by enabling the integrated and coordinated development of an industrial site, enabling an efficient use of the land resource. Additionally,...amenity values of the surrounding environment will be maintained through the appropriate management of the development of the site through the DCP".*

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 agree 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 OCD 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**

Private Plan Change 51 - Development Concept Plan for Milk Processing Site, Waharoa was requested by Open Country Dairy Limited. The Plan Change seeks to establish a customised Development Concept Plan for the company's site located in the Waharoa Industrial Township, 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 August 2017. Subsequently, the Plan Change was notified. In response to the notification, submissions were received from the New Zealand Transport Agency, Powerco Limited, Waharoa Park Limited, Matamata-Piako District Council Staff, and Kiwirail Holdings Limited. A submission was also received from

Ngati Haua Trust. 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 Kiwirail submission wants the safety impacts on the rail crossings to be assessed and where necessary, provisions included in the DCP to avoid, remedy, or mitigate safety effects. Waharoa Park Limited wants assurance that the Plan Change has appropriately considered the infrastructure effects of the proposed development, taking into account the full development potential of the nearby Waharoa Park industrial-style subdivision. Powerco wants assurance that its assets will be protected should development occur in proximity to the electricity network.

Open Country Dairy has consulted with submitters on the matters of concern. The outcome of the discussions is that Powerco and Waharoa Park have been provided with clarification of the matters outlined in their submissions. The safety assessment required by Kiwirail has been undertaken and the DCP modified to include new provisions to manage safety effects on the Hawes Street rail crossing. The amended DCP wording requested by MPDC staff has been accepted by Open Country Dairy and is now reflected in the modified DCP discussed in this report.

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 a result 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:

- Acceptance of the late submission from Kiwirail;
- 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 Late submission by Kiwirail Holdings Limited (Section 37 RMA)**

*That pursuant to section 37 of the Resource Management Act 1991 the Matamata-Piako District Council resolves to accept the late submission by the Kiwirail Holdings Limited, received on 26 October 2017.*

### Reasons

- (i) *Open Country Dairy Limited has reached agreement with Kiwirail Holdings Limited based on the relief sought in the late submission. Therefore the interests of Open Country Dairy Ltd will not be affected by the acceptance of the late submission.*

- (ii) *The acceptance of the late submission will enable the appropriate methods to avoid, remedy, or mitigate adverse effects on the rail network to be included in the DCP as modified by Council's decisions. Therefore the interests of the community will be served by acceptance of the late submission.*
- (iii) *The submission was received shortly after the closing date and as such has not caused a delay in the processing of the Plan Change.*

## **9.2 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 51 by the New Zealand Transport Agency, noting that the DCP provisions have, in response to submissions by other parties, been modified by Council's decisions.*

### Reason

- (i) *The Council is satisfied that Plan Change 51 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 51 by Powerco Limited, noting that the DCP provisions have, in response to submissions by other parties, been modified by Council's decisions.*

### Reasons

- (i) *The matters raised by Powerco's submission have been taken into account in the assessment of Plan Change 51.*
  - (ii) *The matters raised by Powerco's submission are already appropriately addressed in the Operative Matamata-Piako District Plan so that further modifications to the DCP in response to Powerco's submission are not needed.*
- 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 51 by Waharoa Park Limited, noting that the DCP provisions have, in response to submissions by other parties, been modified by Council's decisions.*

### Reason

- (i) *The revised traffic modelling supplied by Open Country Dairy Limited has now appropriately assessed the traffic effects of future development under the DCP, taking into account the projected traffic volumes for the Waharoa Park Limited subdivision when developed to full capacity.*

- D.** *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 51 by Kiwirail Holdings Limited and the further submission by the New Zealand Transport Agency in support of the Kiwirail Holdings Limited submission and to modify the DCP as shown in Appendix B in response to the submission and further submission.*

*Reasons*

- (i) The Level Crossing Safety Impact Assessment undertaken subsequent to notification of the Plan Change has identified the need for additional safety measures to be implemented at the Hawes Street Crossing in order to mitigate adverse effects associated with development envisaged under the DCP.*
- (ii) The proposed amendments to the DCP as shown in Appendix B will ensure the implementation of the safety measures required at the crossing, at the appropriate time.*

- E.** *That pursuant to clause 10 the First Schedule to the Resource Management Act 1991 the Matamata-Piako District Council resolves to accept in part the submission in support of Private Plan Change 51 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.*
- (ii) Concerns regarding the private section of Factory Road can be addressed in a more holistic and integrated context, through Proposed Plan Change 49.*

### **9.3 Decision on Plan Change 51 (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 51 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 and Proposed 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.*

# Appendix A

## Summary of Submissions and Further Submissions

**PROPOSED PLAN CHANGE 51 TO THE OPERATIVE MATAMATA-PIAKO DISTRICT PLAN**

**Proposed Development Concept Plan for Milk Processing Site, Factory Road, Waharoa (Open Country Dairy) – Summary of Submissions and Further Submissions Received**

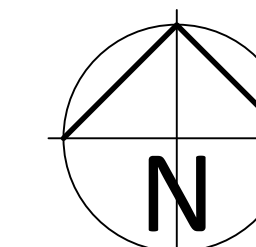
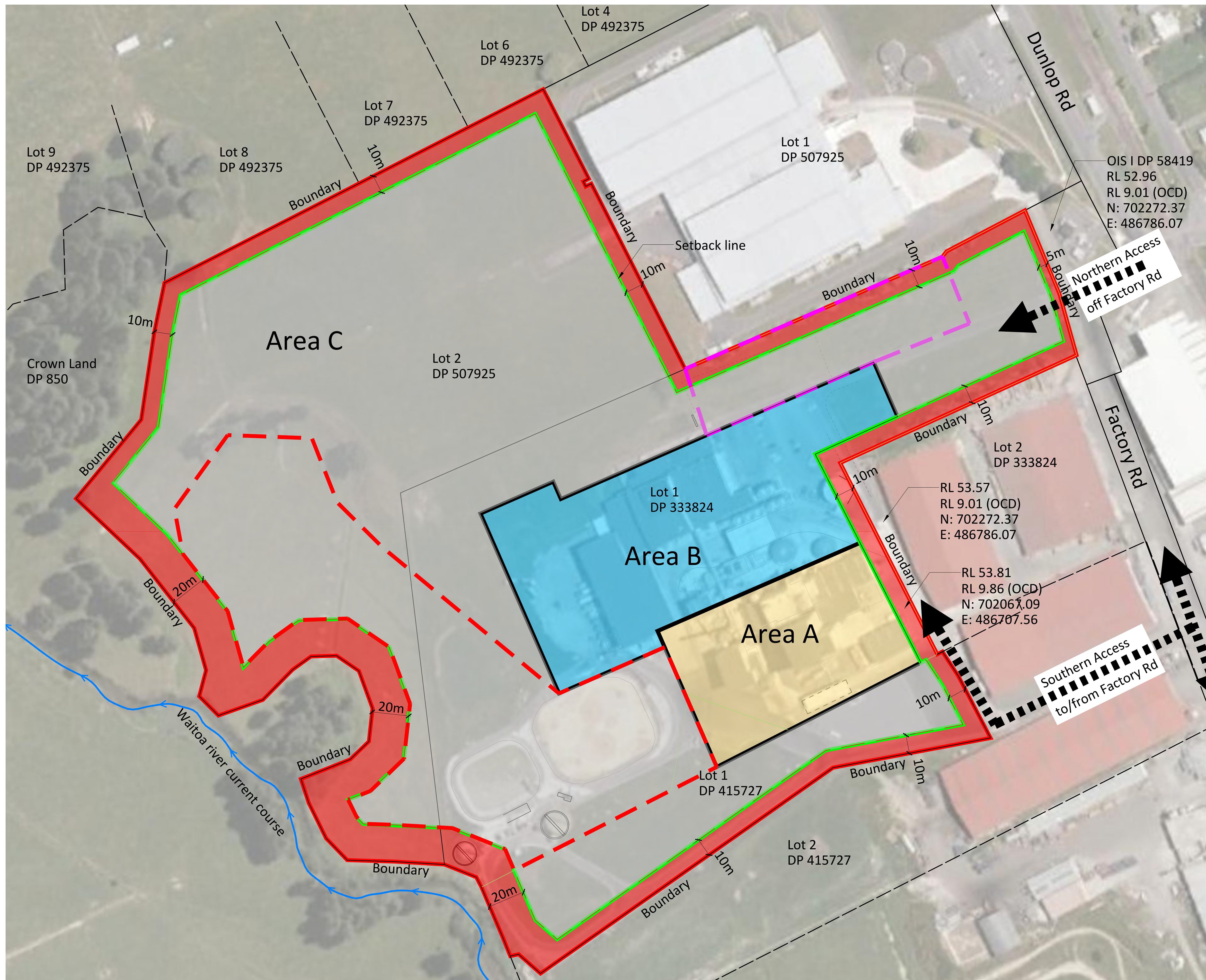
Submitter	Specific provisions of the plan change that the submission relates to	Position (Support/ Oppose/ Neutral)	Details of Submission	Decision that the Submitter wants Council to make	Further Submissions	Submitter to be heard?
<b>1. New Zealand Transport Agency</b> PO Box 973 Waikato Mail Centre Hamilton, 3240 Att: Claudia Jones <a href="mailto:claudia.jones@nzta.govt.nz">claudia.jones@nzta.govt.nz</a>	Traffic effects, specifically on the intersections of Link Road and Hawes Street with State Highway 27.	Support	Traffic volumes expected as a result of the proposed plan change have been assessed and it has been determined that the capacity of the two State Highway 27 intersections is sufficient to cater for the traffic projected to be generated by the expansion of the factory.	Accept plan change.		No
<b>2. Powerco Limited</b> Private Bag 2061 New Plymouth, 4342 Att: Simon Roche <a href="mailto:simon.roche@powerco.co.nz">simon.roche@powerco.co.nz</a> <b>(Original Submission)</b>  <b>2. Powerco Limited</b> Private Bag 2061 New Plymouth, 4342 Att: Simon Roche <a href="mailto:simon.roche@powerco.co.nz">simon.roche@powerco.co.nz</a> <b>(Revised Submission)</b>	The company's electrical assets and security of electricity to the site.	Neutral	<ul style="list-style-type: none"> <li>Powerco has electricity assets within the site including underground cables, distribution transformers, and high voltage switch boxes.</li> <li>The underground cable in the north of the site is protected by easement. However, another cable in the centre of the site does not currently have an easement.</li> <li>Powerco seeks to ensure that its electricity assets are appropriately protected and provisions are included to enable the ongoing development, operation, maintenance and upgrading of its electricity distribution network.</li> </ul>	Powerco seeks to ensure that the following matters are taken into account when the plan change is considered: <ul style="list-style-type: none"> <li><b>Major changes to ground level</b> – changes to ground level in the vicinity of underground and above ground utilities should be minimised, and/or the relevant utility provider should be consulted.</li> <li><b>Location of new buildings</b> – the “Dial Before You Dig” service (<a href="http://www.beforeudig.co.nz">www.beforeudig.co.nz</a>) should be used before undertaking works in proximity to underground assets.</li> <li><del><b>Easements</b> – an easement in gross should be created to protect the existing electricity cable through the site.</del></li> <li><i><b>Note</b> – the requirement to create the easement referred to above has been deleted in Powerco's Revised Submission, because the asset is understood to be owned by OCD, and not Powerco.</i></li> </ul>		No
<b>3. Matamata-Piako District Council</b> PO Box 266 Te Aroha, 3342 Att: Mark Hamilton <a href="mailto:mhamilton@mpdc.govt.nz">mhamilton@mpdc.govt.nz</a>	<ul style="list-style-type: none"> <li>Permitted activities – c).</li> <li>Performance standards 1.1.12; 1.1.14; &amp; 1.1.15.</li> <li>Matters of control – 1.2.3;</li> <li>Matters of discretion 1.3.2.</li> <li>Factory Road</li> </ul>	Support, subject to amendments	<ul style="list-style-type: none"> <li>Permitted activities c) – delete “medical rooms, child care centres and recreational activities for staff”.</li> <li>Performance standard 1.1.12 – delete requirement for front yard landscaping.</li> <li>Performance standard 1.1.14 b), d) and f) – clarify the requirement for staff car parking, loading, and parking formation and add a new performance standard (h) for accessible parking.</li> <li>Performance standard 1.1.15 – include requirement for vehicle access to be designed by qualified engineer.</li> <li>Matters of control 1.2.3 a), c) and e) – clarify the matters of control relating to staff parking, loading space, and traffic generation.</li> <li>Matters of discretion 1.3.2 a), c), e) and f) – clarify the matters of discretion relating to staff parking, loading space, and traffic assessment and generation.</li> <li>Reliance on private section of Factory Road as transportation link/ strategic connection for a number of land owners/ occupiers and concerns regarding road surface/ pavement strength given the projected increase in heavy vehicle movements.</li> </ul>	Accept plan change subject to amendments as requested in the submission and consideration of the impact on the private section of Factory Road.		Yes
<b>4. Waharoa Park Limited</b> c/- Barr & Harris Surveyors Ltd PO Box 112; Matamata, 3440 Att: Gavin Harris <a href="mailto:gavin@barrharris.co.nz">gavin@barrharris.co.nz</a>	Assessment of infrastructure capacity and recognition of industrial land use on Waharoa Park Limited's Dunlop Road/ Mowatt Street industrial-style subdivision.	Support, subject to amendments.	<ul style="list-style-type: none"> <li>Waharoa Park Limited's Dunlop Road/ Mowatt Street industrial-style subdivision was subject to traffic and servicing requirements including off-site upgrades, funded by Waharoa Park Limited.</li> <li>The submission seeks to ensure that the assessment of effects for the plan change recognises the consented and previously mitigated infrastructure effects of the Waharoa Park Limited subdivision.</li> </ul>	Accept the plan change with the following amendments: <ul style="list-style-type: none"> <li>Assessment of infrastructure effects in terms of the full impact of the previously consented Waharoa Park Limited subdivision, recognising the prior mitigation works for the fully developed subdivision funded by Waharoa Park Limited.</li> </ul>		Yes

<p><b>5. Ngati Haua Iwi Trust</b>  19A Allen Street  Morrinsville, 3700  Att: Weka Pene  <a href="mailto:weka@ngatihauaiwitrust.co.nz">weka@ngatihauaiwitrust.co.nz</a></p> <p><b>WITHDRAWN</b>  <b>15 June 2018</b></p>	<ul style="list-style-type: none"> <li>• All Permitted, Controlled, Restricted Discretionary, Discretionary and Non-Complying Activities.</li> <li>• Performance Standards 1, 2, 3, 5, 10, 17, 18, 19, 20 and 21.</li> </ul>	Oppose	<ul style="list-style-type: none"> <li>• Waharoa is a place of significance to Ngati Haua, particularly the hapu of Ngati Rangi To Oro.</li> <li>• There are several traditional pa sites adjacent to the Site, where Te Waharoa and his people settled.</li> <li>• Raungaiti Marae and its members hold kaitiakitanga over the area within which the Site is located.</li> <li>• Tangata Whenua are concerned with the decline in life-force of the environment, surface water and groundwater quantity, and water quality of the Waitoa River (where food gathering and swimming is no longer recommended); and the decline in air quality.</li> <li>• Further development of the Site will lead to further pressures on natural resources and present a threat to the mauri of the area.</li> </ul>	Decline the plan change, or if not declined: <ul style="list-style-type: none"> <li>• Provide further opportunity for consultation with iwi;</li> <li>• Provide further information;</li> <li>• Provide the iwi with further opportunity to consider an appropriate response to the plan change request.</li> </ul>		Yes
<p><b>6. Kiwirail Holdings Limited</b>  Level 1  Wellington Railway Station  Bunny Street  PO Box 593  Wellington, 6140  <a href="mailto:Pam.butler@kiwirail.co.nz">Pam.butler@kiwirail.co.nz</a>  <b>(Late Submission)</b></p>	Safety risks and safe operation at the two railway level crossings that could be affected by an increase in production at the Site.	Support, subject to road/rail safety issues being addressed.	<ul style="list-style-type: none"> <li>• Provide an assessment of the impact of the proposal on the two railway level crossings (Hawes Street and State Highway 27) in terms of risks and safe operations.</li> <li>• Confirm whether the existing level crossings are adequate to accommodate the proposed increase in traffic, or if additional mitigation measures are required.</li> <li>• Use the “Level Crossing Safety Impact Assessment” process (LCSIA) to assess the risks.</li> <li>• In assessing the risks, use the “Level Crossing Safety Score” (LCSS) together with the traditional ALCAM level crossing risk model score to consider the three additional data sources associated with crash risk being: <ul style="list-style-type: none"> <li>– historical crash and incident data;</li> <li>– safety observations made by locomotive engineers and road controlling authority engineers; and:</li> <li>– a more detailed site assessment of the impact of the existing level-crossing lay-out on traffic/cyclists/pedestrians, and their interaction with it and the surrounding transport network .</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• <b>Primary relief sought:</b> Undertake the LCSIA assessment prior to consideration of the plan change, and identify whether any safety mitigation measures are required now, or could be staged as part of the Site’s future development. This will enable the increase in traffic from the currently consented 475 million litres per annum to the permitted activity limit of 750 million litres per annum proposed in the plan change, to be considered.</li> <li>• <b>Secondary relief sought:</b> As a minimum, require that level crossing risk is assessed at the Controlled and Restricted-Discretionary stages (for growth from 750 million litres and beyond), by adding the following clause as 1.2.3(f), 1.3.2(g), and 1.1.15 of the DCP: <ul style="list-style-type: none"> <li>– “Undertake a Level Crossing Safety Impact Assessment LCSIA for the Hawes and Seddon Road level crossings with SH27, to determine whether upgrades or treatment are required to achieve safe operating levels for road users, pedestrians, and cyclists. If mitigation is required identify how it will be delivered to avoid adverse impacts.”</li> </ul> </li> </ul>	<p><b>NZ Transport Agency</b></p> <p>The Agency supports the submission of Kiwirail Holdings Limited (submitter 6) in its entirety. The assessments identified by the submitter are necessary to ensure the effects of the development are appropriately avoided, remedied or mitigated. The Transport Agency does not wish to be heard in support of its original and further submissions.</p>	Yes

## Appendix B

Recommended changes to DCP (tracked changes),  
and other consequential changes to the District  
Plan proposed as a consequence of the plan  
change




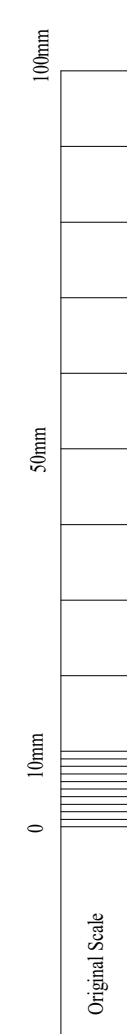


**SITE SURVEY NOTES**

1. All contour levels are in terms of the Moturiki vertical datum 1953.
2. All coordinates are in terms of the NZ GD2000 datum.
3. OIS I DP 58419 (Origin)  
-Moturiki vertical datum RL 52.96  
-Open Country datum RL 9.01

Area A: Max. building height = 50m  
Area B: Max. building height = 30m  
Area C: Max. building height = 14.5m

-  Wastewater and water treatment areas
-  Parking area





## ACTIVITY SCHEDULE – MILK PROCESSING FACILITY, FACTORY ROAD, WAHAROA

### Permitted Activities

The following activities are Permitted subject to compliance with the performance standards outlined within Section 1.1 of the DCP:

- a) The operation of a milk processing facility, involving the processing of up to 750 million litres per annum;
- b) The following buildings, structures and activities accessory and/or ancillary to permitted, controlled, or restricted discretionary milk processing:
  - Facilities for the packing and distribution of any products produced on site;
  - Transport servicing depots and workshops;
  - Operation, maintenance, and upgrade water and wastewater treatment plants (within the area shown on the DCP);
  - Offices, laboratories and research facilities;
  - Car parking within the demarcated parking areas shown on the DCP;
  - Energy production including boilers, power plants and co-generation plants;
- c) Ancillary activities to the operation of the milk processing facility including: canteens, dining rooms, **and** ablution facilities, ~~medical rooms, child care centres and recreational activities for staff;~~
- d) Earthworks associated with the construction and development of buildings, structures and activities accessory and/or ancillary to any permitted, controlled, or restricted discretionary activity;
- e) Storage of hazardous substances relating to a permitted, controlled, or restricted discretionary activity for a milk processing facility.

### Controlled Activities

The following activities are Controlled subject to compliance with the performance standards outlined within Section 1.1 of the DCP:

- a) The operation of a milk processing facility, involving the processing of up to 1 billion litres per annum.

*Note:*

*Controlled Activities are subject to the matters for control outlined in Section 1.2 Matters of Control in the DCP.*

### Restricted Discretionary Activities

The following activities are Restricted Discretionary subject to compliance with the performance standards outlined within Section 1.1 Performance Standards of the DCP:

- a) The operation of a milk processing facility, involving the processing of up to 1.25 billion litres per annum;
- b) Any activity that is provided for in this DCP as a Permitted, Controlled, or Restricted Discretionary activity that does not meet the performance standards within Section 1.1 Performance Standards.

*Note:*

*Restricted Discretionary Activities are subject to the matters for discretion outlined in Section 1.3 Matters of Discretion of the DCP.*

### Discretionary Activities

The following activities are proposed as Discretionary activities:

- a) Any activity that is not provided for in this DCP as a Permitted, Controlled, or Restricted Discretionary activity that meets the performance standards within Section 1.1 of the DCP;
- b) New wastewater treatment plants (outside of the location shown on the DCP);
- c) New water treatment plants (outside of the location shown on the DCP).

### Non- Complying Activities

The following activity is proposed as a Non-complying activity:

- a) Any activity that is not provided for in this DCP as a Permitted, Controlled, or Restricted Discretionary activity and that does not meet the performance standards within Section 1.1 Performance Standards.

1.1 Performance Standards											
1. Noise	<p>Noise from operational activities on the site shall not exceed:</p> <ul style="list-style-type: none"> <li>- When measured at the inner noise control boundary: At all times: 65dB <math>L_{aeq}</math></li> <li>- When measured at the outer noise control boundary: 7.00am to 10.00pm: 50 dB <math>L_{aeq}</math> 10.00pm to 7.00am. 40dB <math>L_{aeq}</math> and 75dB <math>L_{afmax}</math></li> </ul> <p>The Inner and Outer Noise Emission Control Boundaries are as defined on the DCP plan.</p> <p>The noise levels shall be measured in accordance with the requirements of NZS6801:2008 "Measurement of Environmental Sound" and assessed in accordance with NZS6802:2008 Acoustics - Environmental Noise.</p>										
2. Construction Noise	<p>All construction noise shall meet the limits recommended in Table 1 of NZS6803P:1984. The Measurement and Assessment of Noise from Construction, Maintenance and Demolition Work and shall be measured in accordance with NZS6803P:1984. Adjustments provided in Clause 6.1 of NZS6803P:1984 shall apply, and references in the Tables of NZS6803P:1984 to "NZS6802" shall read as references to Clause 4.2.2 of NZS6802:1991.</p>										
3. Vibration	<p>Vibration shall not exceed the following average levels:</p> <p>a) At or within the boundary of any site zoned residential, or within 20m of any dwelling in the rural or rural-residential zones:</p> <table border="1"> <thead> <tr> <th>Time</th><th>Average Weighted Vibration Level (Wb or Wd)</th></tr> </thead> <tbody> <tr> <td>Monday to Saturday 7.00 - 6.00pm (0700 - 1800)</td><td>45 mm/s<sup>2</sup></td></tr> <tr> <td>At all other times</td><td>15 mm/s<sup>2</sup></td></tr> </tbody> </table> <p>b) At or within the boundary of any adjacent site zoned business or industrial:</p> <table border="1"> <thead> <tr> <th>Time</th><th>Average Weighted Vibration Level (Wb or Wd)</th></tr> </thead> <tbody> <tr> <td>At all times</td><td>60 mm/s<sup>2</sup></td></tr> </tbody> </table> <p>c) The weighted vibration levels Wb and Wd shall be measured according to BS6841:1987. The average vibration shall be measured over a time period not less than 60 seconds and not longer than 30 minutes. The vibration shall be measured at any point where it is likely to affect the comfort or amenity of persons occupying an adjacent site.</p>	Time	Average Weighted Vibration Level (Wb or Wd)	Monday to Saturday 7.00 - 6.00pm (0700 - 1800)	45 mm/s <sup>2</sup>	At all other times	15 mm/s <sup>2</sup>	Time	Average Weighted Vibration Level (Wb or Wd)	At all times	60 mm/s <sup>2</sup>
Time	Average Weighted Vibration Level (Wb or Wd)										
Monday to Saturday 7.00 - 6.00pm (0700 - 1800)	45 mm/s <sup>2</sup>										
At all other times	15 mm/s <sup>2</sup>										
Time	Average Weighted Vibration Level (Wb or Wd)										
At all times	60 mm/s <sup>2</sup>										

4. Lighting and Glare	<p>a) At no time between 7.00am and 10.00pm shall any outdoor lighting be used in a manner that causes an added illuminance in excess of 125 lux, measured horizontally or vertically at the boundary of any non-industrial zoned site adjoining;</p> <p>b) At no time between the hours of 10.00pm and 7.00am shall any outdoor lighting be used in a manner that causes:</p> <ul style="list-style-type: none"> <li>i. An added illuminance in excess of 10 lux measured horizontally or vertically at any window of an adjoining building within a non-industrial zone.</li> <li>ii. An added illuminance in excess of 20 lux measured horizontally or vertically at any point along any non-industrial zone boundary;</li> </ul> <p>c) Where measurement of any added illuminance cannot be made because any person refuses to turn off outdoor lighting, measurements may be made in locations of a similar nature which are not affected by such outdoor lighting;</p> <p>d) The outdoor lighting on any site adjoining any non-industrial zoned site shall be so selected, located, aimed, adjusted and screened as to ensure that glare resulting from the lighting does not cause a significant level of discomfort to any occupants of the non-industrial site;</p> <p>e) No reflective material or unpainted surface that creates glare to the extent that it causes discomfort shall be used;</p> <p>For the purpose of this standard, the discomfort level is defined as one that can be detected and determined to be a nuisance by an appropriately experienced Council Officer who is able to apply a frequency, intensity duration, and offensiveness assessment objectively to their observations.</p>
5. Air Emissions	<p>a) Odour: The management of activities shall ensure that there is no odour nuisance at or beyond the boundary of the property.</p> <p>b) Dust and Particulate: The management of activities shall ensure that there is no discharge of dust or particulate to the extent that it causes an adverse effects at or beyond the property.</p> <p>For the purpose of this rule an odour nuisance is defined as one that can be detected and determined to be a nuisance by three observers who are neutral to the issue, able to apply the frequency, intensity, duration and offensiveness to their observations and who are able to report these accurately; or an appropriately experienced Council or Regional Council Officer after having considered objectives, policies and guidelines of assessment as provided in the relevant sections of a Regional Air Plan or consideration of the provisions in Section 17 and Part XII of the RMA.</p>
6. Use and storage of hazardous substances	<p>The use and storage of hazardous substances shall comply with the Hazardous Substances and New Organisms Act 1996 (HASNO) as amended and the regulations made under the HASNO Act.</p>



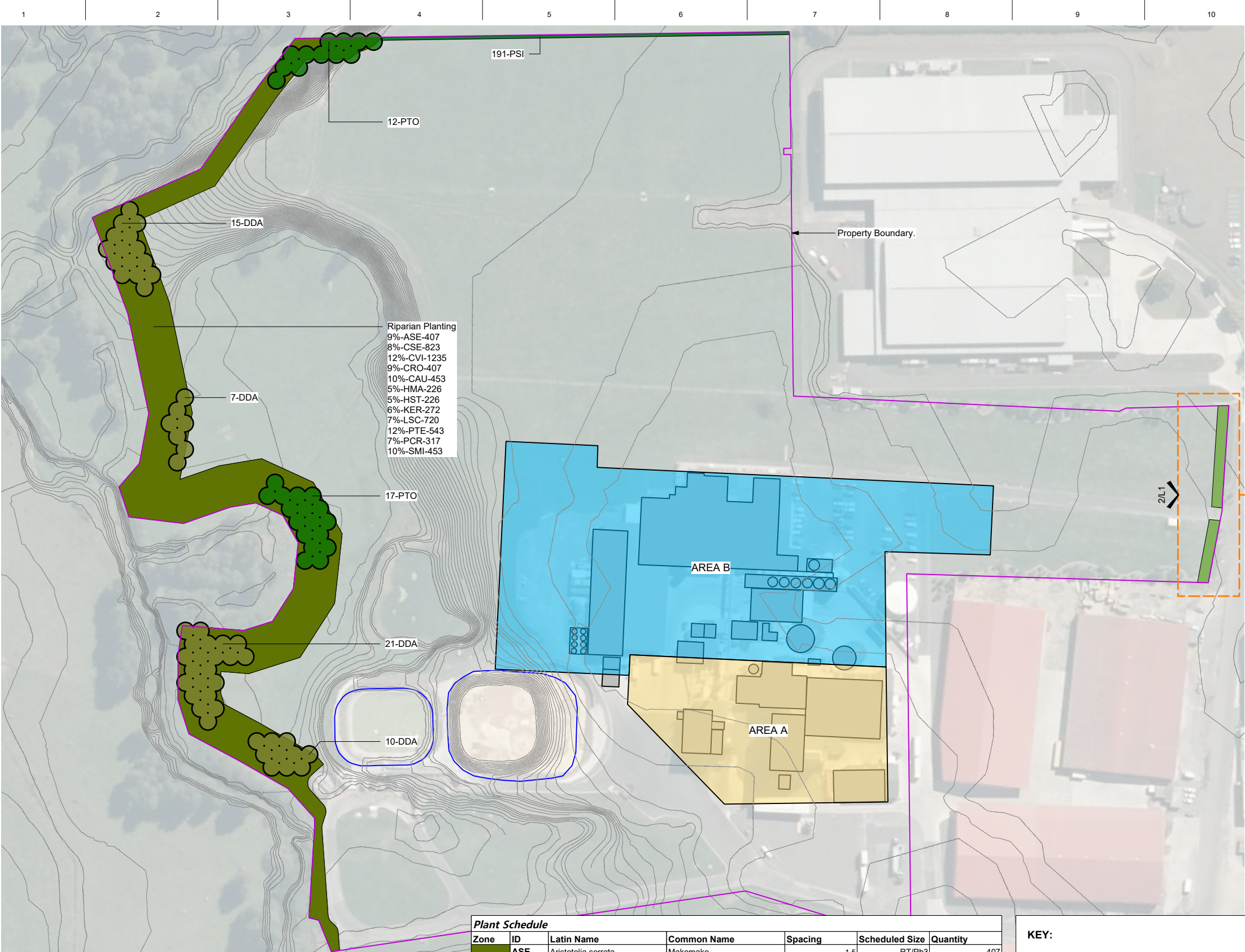
7. Building Envelope (Areas as shown on the DCP Plan)	<p><u>Area A:</u></p> <p>Maximum height: 50m.</p> <p><u>Area B:</u></p> <p>Maximum height: 30m.</p> <p><u>Area C:</u></p> <p>Maximum height: 14.5m.</p>
8. Yard	10m.
9. Front Yard	5m.
10. Waitoa River Yard	20m setback (as measured from the river bank).
11. Height Relative to Boundary	Height (h) shall not exceed one quarter the distance (d) to the closest boundary adjoining (h = d/4) for site boundaries adjoining any non-Industrial zone.
<del>12. Front Yard</del> <b>Landscaping</b>	<del>50% of required Front Yard</del>
13. Building Design	<p>External appearance, colour scheme and cladding:</p> <ul style="list-style-type: none"> <li>i. Reflective of Industrial environment, with buildings typically pre-cast concrete panels, Coloursteel roofing and stainless steel milk storage tanks;</li> <li>ii. Reflective materials on buildings shall be avoided to reduce impact of glare.</li> </ul>
14. Car Parking, loading, Fleet Parking, and Formation and Manoeuvring	<ul style="list-style-type: none"> <li>a) A minimum of 45 staff parking spaces shall be provided on the site in association with permitted activities;</li> <li>b) Each application to increase the milk processing capacity of the facility shall be accompanied by details outlining the staff increases associated with the capacity increase. <del>Provision shall then be made for staff parking at a rate equivalent to the staff requirement for each consented increase in the milk processing capacity</del> <b>The number of car parks provided shall not be less than the number of staff expected on site at any one time;</b></li> <li>c) 10 visitor parking spaces shall be provided at all times;</li> <li>d) 1 parking/<b>loading</b> space shall be provided for a courier van at all times;</li> <li>e) All visitor parking and loading spaces shall be clearly identified;</li> <li>f) All parking <b>dimensions spaces</b> shall be, formed and surfaced in accordance with the <b>dimensions required by the</b> MPDC Development Manual 2010;</li> <li>g) Parking shall be located in the areas shown on the DCP;</li> <li><b>h) Four accessible parking spaces shall be provided at all times. The dimensions of the accessible spaces shall be in accordance with NZS4121:2001.</b></li> </ul>

15. Access	<ul style="list-style-type: none"> <li>a) Vehicle access is to be provided and maintained at both the northern and southern boundaries of the site on Factory Road (and as shown on the DCP);</li> <li>b) The Northern access off Factory Road shall be maintained as a single driveway access (i.e. shared by light and heavy vehicles);</li> <li>c) All vehicle accesses shall be designed <b>by an appropriately qualified engineer</b> and constructed in accordance with the MPDC Development Manual 2010;</li> <li><b>d) Prior to the commissioning of any expansion in milk production capacity on the site, above the currently consented level of 475 million litres per annum, the following works at Hawes Street Level Crossing, Waharoa, included as part of the recommendations in the March 2018 Report entitled: Open Country Dairy Limited, Hawes Street Level Crossing, Waharoa, Level Crossing Safety Impact Assessment, and its Addendum reports ("the March 2018 Report"), shall be completed namely:</b> <ul style="list-style-type: none"> <li><b>i. Installation of LEDs on existing flashing light boards (as required)</b></li> <li><b>ii. Automation/electrical upgrades to the warning system to increase warning time (software update)</b></li> </ul> </li> </ul> <p><b>The funding of these works will be the responsibility of the Milk Processing Facility.</b></p>
16. Signage	<ul style="list-style-type: none"> <li>a) Signage attached to or forming part of the principal building, its walls or canopies shall not exceed 30m<sup>2</sup>.</li> <li>b) In addition, free standing signs are permitted where the surface area viewed from any one direction does not exceed 16m<sup>2</sup>.</li> </ul>
17. Landscaping	<p>To be maintained in accordance with the site landscaping plan (and the staging of that plan) that forms part of the DCP.</p> <p>Stages of Landscaping to be implemented:</p> <ul style="list-style-type: none"> <li>• Stage 1: Amenity planting and Specimen tree planting (required with the operation of a milk processing facility of up to 750 million litres per annum);</li> <li>• Stage 2: Riparian planting (required with the operation of a milk processing facility of up to 1 billion litres per annum).</li> </ul>
18. Earthworks	Earthworks must be undertaken in accordance with the MPDC Development Manual (2010) and the Waikato Regional Council's Guidelines for Soil Disturbing Activities (2009).
19. Wastewater Treatment Plants	To be limited to the location shown on the DCP.
20. Water Treatment Plants	To be limited to the location shown on the DCP.
21. Stormwater Discharge	All stormwater discharge to be via the on-site stormwater wetland and be managed in accordance with the MPDC Development Manual.

1.2 Matters of Control	
1. General	<ul style="list-style-type: none"> <li>a) Location relative to the DCP;</li> <li>b) Confirmation of compliance with the performance standards of the DCP, including confirmation of staff numbers for the purpose of demonstrating compliance with parking standards.</li> </ul>
2. Visual	<ul style="list-style-type: none"> <li>a) Building Design <ul style="list-style-type: none"> <li>- Scale and bulk: consistency with performance standards;</li> <li>- External appearance, colour scheme and cladding: reflective of Industrial environment, with buildings typically pre-cast concrete panels, Coloursteel roofing and stainless steel milk storage tanks. Reflective materials on buildings shall be avoided to reduce impact of glare;</li> </ul> </li> <li>b) Scale, including the height and bulk of the building;</li> <li>c) Incorporation and appropriate scale of signage and provision of lighting.</li> </ul>
3. Traffic and Parking	<ul style="list-style-type: none"> <li>a) Staff <b>P</b>-parking to be provided at a rate as per the performance standards (being at a rate equivalent to <b>the number of staff on site at any one time numbers</b>, plus 10 visitor spaces);</li> <li>b) All parking spaces (including any Fleet Parking) shall be designed to meet the standards in 1.1 Performance Standards;</li> <li>c) <b>Provision Allocation</b> of a loading space for a courier van adjacent to the office building;</li> <li>d) Provision of safe and efficient operation of existing access/exits;</li> <li>e) Traffic generation: to be demonstrated to be in general accordance with the following estimated truck delivery movements per year (based on cumulative production capacity): 1 billion litres/year – 76,000 <b>vehicles/year</b>.</li> </ul>
4. Landscaping	<ul style="list-style-type: none"> <li>a) Stage 2 Landscaping (Riparian Planting – as shown on DCP Plans) to be implemented;</li> <li>b) Stage 1 Landscaping (Amenity Planting and Specimen Tree Planting) to be maintained.</li> </ul>

1.3 Matters of Discretion – Restricted Discretionary Activities.	
1. General	<ul style="list-style-type: none"> <li>a) Location relative to the DCP;</li> <li>b) Confirmation of compliance with the performance standards of the DCP, including confirmation of staff numbers for the purpose of demonstrating compliance with parking standards;</li> <li>c) Extent of compliance with the matters of control.</li> </ul>
2. Traffic and Parking	<ul style="list-style-type: none"> <li>a) Staff <b>P</b> parking to be provided at a rate as per the performance standards (being at a rate equivalent to <b>the number of staff on site at any one time numbers</b>, plus 10 visitor spaces);</li> <li>b) All parking spaces (including any Fleet Parking) shall be designed to meet the standards in 1.1 Performance Standards;</li> <li>c) <b>Provision Allocation</b> of a loading space for a courier van adjacent to the office building;</li> <li>d) Provision of safe and efficient operation of access/exits;</li> <li><del>e) Provide a Traffic Assessment (including surveys) to determine the existing level of service at the time of expansion for the intersections at Factory Road/Hawes Street and SH27, and Link Road and SH27. This assessment shall demonstrate that this level can be maintained (and may include mitigation, such as a Fleet Management Strategy to limit impacts on the intersections during peak times, or physical mitigation to the intersections).</del></li> <li>e) Provide a Transportation Assessment (including traffic surveys) to determine that the actual trip generation is consistent with the anticipated volumes of 1.3.2 f). This assessment shall also demonstrate that the existing level of service (being no worse than level of service D, from the Waikato Regional Transportation Model) at the intersections of Factory Road/Hawes Street and SH27, and Link Road and SH27 can be maintained (and may include mitigation, such as a Fleet Management Strategy to limit impacts on the intersections during peak times, and/or physical mitigation to the intersections);</li> <li>f) Traffic generation: to be demonstrated to be in general accordance with the following estimated truck delivery movements per year (based on cumulative production capacity): 1.25 billion litres/year – 95,000 <b>vehicles/year</b>;</li> <li><b>g) The extent to which the level crossing improvements at Hawes Street Level Crossing, Waharoa, included as part of the recommendations in the March 2018 Report have been implemented.</b></li> </ul>
3. Landscaping	<ul style="list-style-type: none"> <li>a) Stage 1 and Stage 2 Landscaping to be maintained in accordance with DCP Plans).</li> </ul>





1 Planting Overview  
Scale: 1:1000



3 Riparian Planting Typ. (Section-Elevation)  
Scale: 1:100

Plant Schedule						
Zone	ID	Latin Name	Common Name	Spacing	Scheduled Size	Quantity
	ASE	Aristotelia serrata	Makomako	1.5	RT/Pb3	407
	CSE	Carex secta	Purei	1	RT/Pb3	823
	CVI	Carex virgata	Pukio	1	RT/Pb3	1235
	CRO	Coprosma robusta	Karamu	1.5	RT/Pb3	407
	CAU	Cordyline australis	Cabbage Tree	1.5	RT/Pb3	453
	DDA	Dacrycarpus dacrydioides	Kahikatea	7	2m	53
	FPR	Fuchsia procumbens	Creeping Fuchsia	0.75	Pb3	103
	HFL	Hebe 'Flame'	Hebe 'Flame'	0.7	Pb5	92
	HMA	Hebe macrocarpa	Koromiko	1	RT/Pb3	226
	HST	Hebe stricta	Koromiko	1.5	RT/Pb3	226
	KER	Kunzea ericoides	Kanuka	1.5	RT/Pb3	272
	LSC	Leptospermum scoparium	Manuka	1	RT/Pb3	720
	LLO	Lomandra longifolia	Lomandra longifolia	0.9	Pb5	86
	PTE	Phormium tenax	Harakeke	1.5	RT/Pb3	543
	PSI	Pittosporum Stephens Island	Pittosporum Stephens Island	1	1m	268
	PCI	Poa cita	Silver tussock	0.7	Pb3	132
	PTO	Podocarpus totara var. totara	Totara	7	2m	29
	PCR	Pseudopanax crassifolius	Lancewood	1.5	RT/Pb3	317
	SMI	Sophora microphylla	Kowhai	1.5	RT/Pb3	453
					Total	6845

KEY:

Amenity plant and specimen tree labels:

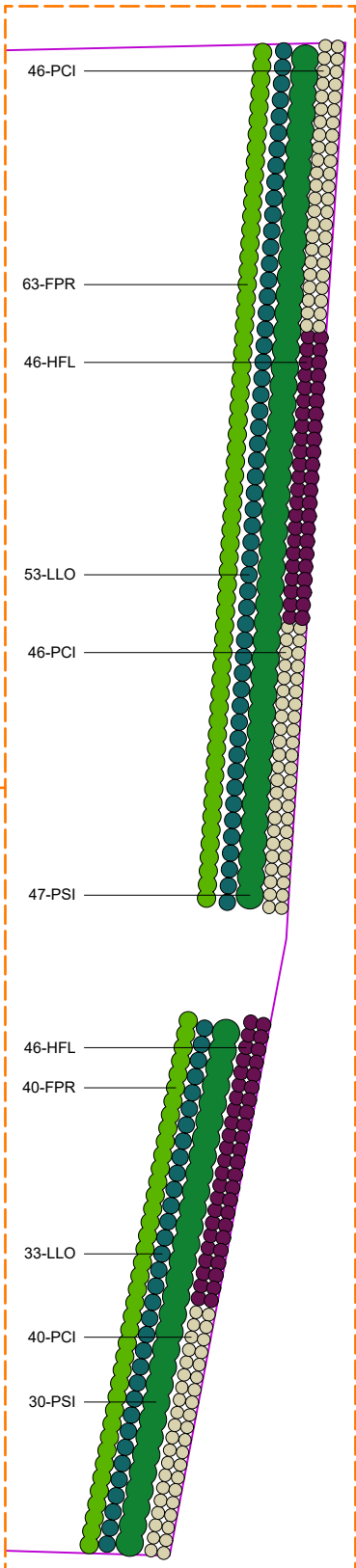
21-DDA  
Quantity Plant species code (refer schedule)

Riparian planting labels:

10%-CAU-458  
% of total plants within planted area Plant species code (refer schedule) Quantity

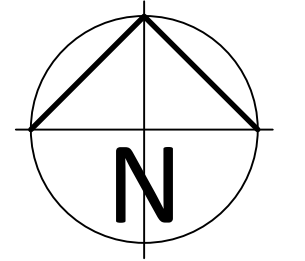
Plant types indicated in planting schedule:

- Amenity Planting - Stage 1
- Specimen Tree - Stage 1
- Riparian planting - Stage 2



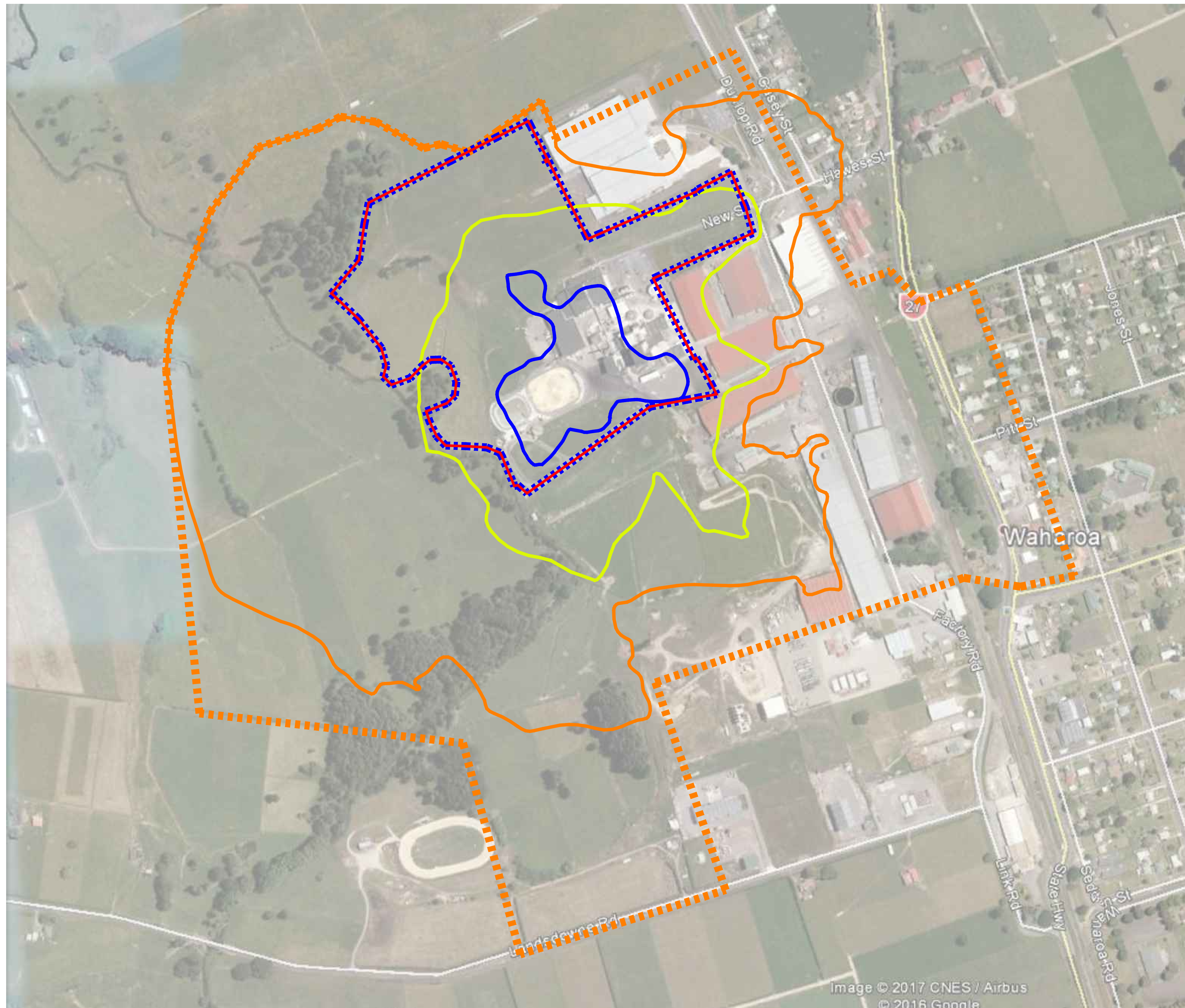
2 Amenity Planting Detail.  
Scale: 1:200 (A1)





**LEGEND**

- Area subject to DCP request
- 60dB  $L_{Aeq}$  contour line
- Inner NECB (coincides with DCP boundary)
- 50dB  $L_{Aeq}$  contour line
- 40dB  $L_{Aeq}$  contour line
- Outer NECB



**Te Aroha Skin Processors Limited**

Lot 8 DPS 33821, Block XI Aroha SD.

**Totara Springs Christian Centre**

Part Section 1A Mangawhero Settlement, SO 13998, Lot 1 DPS 34763, Block III Tapapa SD.

**New Zealand Mushrooms Limited – Snell Street, Morrinsville**

Section 1 SO 55982, Lot 7A DP 2465 and PT Lot 1 DP 16287, all being part of the Motumaoho No. 2 Block.

**New Zealand Mushrooms Limited – Taukoro Road, Morrinsville**

Lot 1 DP 36969, Block II Maungakawa SD.

**IB and JP Diprose – Barton Road, Okauia**

Part Okauia 1 Block being Part DP7148, Okauia 4B Block, Lot 1 DPS 24315 Blocks IV and VIII Tapapa SD.

**DL and JL Swap**

Part Section 126, Block II, Tapapa East Survey District (CT SA5B/22).

**Richmonds Limited**

Part Section 6 DP 18461 and Lot 1 DPS17578, Part Sections 12, 21, 32, 33, 34, 35, 36 and 37 Block XI, Aroha SD, and Part Section 6 Block XI Aroha SD.

**Greenlea Premier Meats Limited Morrinsville**



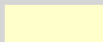












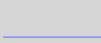

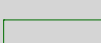





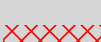

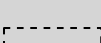











Motumaoho Number 2 block and lots 1 and 2 and part lot 2 DP 17820, Section 1, SO Plan 5384, Lots 3 and 4 DP 20396 and Part Lot 100A DP 2461.

**Milk Processing Site, Factory Road, Waharoa**

Lot 1 DP 333824, Lot 2 DP 507925 and Lot 1 DP 415727




***Advice note: See Part C: Planning Maps for the Development Concept Plans.***

# Matamata-Piako District Plan Legend




	INDUSTRIAL		BUSINESS/RESIDENTIAL INTERFACE AREA
	RESIDENTIAL		TE AROHA HERITAGE CHARACTER AREA
	RURAL		RESIDENTIAL INFILL AREA
	BUSINESS		FUTURE RESIDENTIAL POLICY AREA
	RURAL RESIDENTIAL 1		PEAT SOIL
	RURAL RESIDENTIAL 2		FLOOD HAZARD
	KAITIAKI (CONSERVATION)		WATER COURSE
	OUTSTANDING OR SIGNIFICANT		DETENTION PONDS & SPILLWAYS
	NATURAL FEATURES AND		CROWN LAND RESERVED FROM SALE
	OTHER PROTECTED ITEMS		RESERVE
	DESIGNATED SITE		FIRE LINE EDGE
	HERITAGE SITE		FIRE HAZARD BUFFER
	PROTECTED TREE		DISTRICT BOUNDARY
	WAAHI TAPU SITE		PARCEL BOUNDARY
	STRUCTURE PLAN		ROAD
	PRINCIPAL ROAD LANDSCAPING AREA		DESIGNATION
	SHOP FRONTAGE		NOISE EMISSION CONTROL BOUNDARY
	WATER CATCHMENT ZONE		(REFER TO DEVELOPMENT CONCEPT PLAN)
	INSTABILITY AREA		DEVELOPMENT CONCEPT PLAN AREA

## Third Party Works and Utility Features

### Waikato Regional Council

	FLOODGATE
	PUMP STATION
	EMBANKMENT

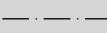


### Powerco

	SITE
	SUB TRANS OVERHEAD LINE CORRIDOR
	SUB TRANS UNDERGROUND CABLE CORRIDOR

### Transpower

	SITE
	TRANSMISSION LINE

### Vector Gas

	GAS PIPELINE
	GAS STATION SITE
	GAS PIPE CORRIDOR

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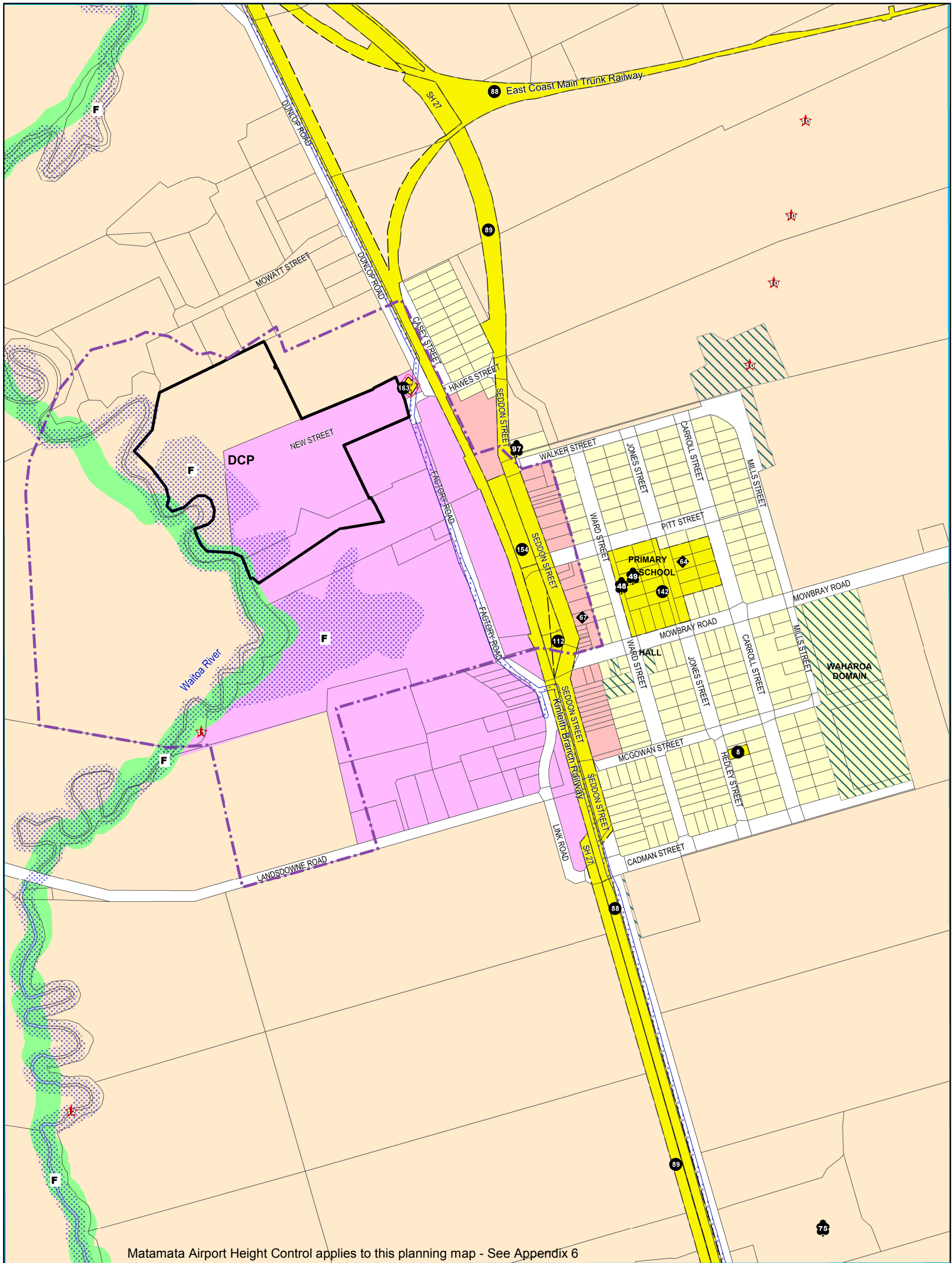
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# MATAMATA-PIAKO DISTRICT PLAN LEGEND

Version 5 -- Operative 6 April 2018



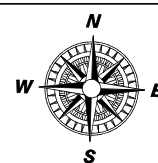




# WAHAROA

## Scale 1:8,000

Version 9 -- Operative 24 May 2017



11	11/12	12
	<b>31</b>	
	14	

