

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER Proposed Waikato District Plan: Hearing
28: Other Matters

**STATEMENT OF EVIDENCE OF MARK CHRISP ON BEHALF OF
FONTERRA LIMITED**

PLANNING

1. INTRODUCTION

- 1.1 My name is Mark Chrisp. I am a Director and a Principal Environmental Planner in the Hamilton Office of Mitchell Daysh Ltd, a company which commenced operations on 1 October 2016 following a merger of Mitchell Partnerships Ltd and Environmental Management Services Ltd (of which I was a founding Director when the company was established in 1994 and remained so until the merger in 2016). I am currently serving as the Chairman of the Board of Mitchell Daysh Ltd.
- 1.2 In addition to my professional practice, I am an Honorary Lecturer in the Department of Geography, Tourism and Environmental Planning at the University of Waikato. I am also the Chairman of the Environmental Planning Advisory Board at the University of Waikato, which assists the Environmental Planning Programme in the Faculty of Arts and Social Sciences in understanding the educational, professional and research needs of planners.
- 1.3 I have a Master of Social Sciences degree in Resources and Environmental Planning from the University of Waikato (conferred in 1990) and have 30 years' experience as a Resource Management Planning Consultant.
- 1.4 I am a member of the New Zealand Planning Institute, the New Zealand Geothermal Association, and the Resource Management Law Association.
- 1.5 I am a Certified Commissioner under the Ministry for the Environment's 'Making Good Decisions' course.
- 1.6 I have appeared as an Expert Planning Witness in numerous Council and Environment Court hearings, as well as several Boards of Inquiry (most recently as the Expert Planning Witness for the Hawke's Bay Regional Investment Company Ltd's proposed Ruataniwha Water Storage Scheme).
- 1.7 I have undertaken a substantial amount of work within the dairy sector working for New Zealand Dairy Group and then Fonterra Ltd ("**Fonterra**") over the last 25 years. Over that time, I have undertaken planning work in relation to all of Fonterra's dairy manufacturing sites in the Northland, Auckland, Waikato and Bay of Plenty regions. This has included re-consenting existing dairy manufacturing operations and/or associated spray irrigation of wastewater (e.g. the Hautapu and Edgecumbe sites) and major capacity expansion projects.

- 1.8 I have assisted Fonterra in resource management matters relating to the Te Rapa Dairy Factory over the last 25 years. This has included:
- (a) Project managing and being the principal author of the resource consent applications and the AEEs, for the Te Rapa Capacity Expansion and Co-generation Plant Project in 1996 – 1997. This project included the cream cheese plant, the largest drier on the site, a dry-store extension, the grade separated interchange, the wastewater treatment plant, and the co-generation plant (owned and operated by Contact Energy Ltd ("**Contact Energy**"));
 - (b) Developing the Mangaharakeke Pa Site Management Plan (the Pa site is located in the north eastern part of the Te Rapa Dairy Factory Site);
 - (c) Extensive involvement in the hearing, submission and appeal processes relating to the preparation of the operative Waikato District Plan (which formed the basis of the planning provisions for the Te Rapa North area now included in the Hamilton City District Plan – the preparation of which I was also involved in on behalf of Fonterra);
 - (d) Preparation of resource consent applications for the upgrade to the water intake structure;
 - (e) Assistance with the development of the Te Awa River Ride as it passes through the Te Rapa Dairy Factory site;
 - (f) Assisting Fonterra in relation to its resource consent applications to Waikato Regional Council for the on-going operation of the Te Rapa Dairy Factory (i.e. water take, and discharges to land, air and water); and
 - (g) Involvement in the hearing, submission and appeal processes relating to Plan Change 2 to the Hamilton City District Plan (Te Awa Lakes Development).
- 1.9 I have had extensive experience assisting operators of large-scale industrial activities and/or energy infrastructure seeking to avoid the creation of reverse sensitivity effects. This includes work undertaken for Fonterra in relation to its dairy manufacturing sites and work undertaken for Contact Energy in relation to its geothermal power stations and associated steamfield activities (including 24/7 drilling activities and steam venting) in the Central North Island.

- 1.10 I was a co-author of the Horotiu Industrial Study (which included the Te Rapa North area) prepared for Waikato District Council in July 2004 as part of the preparation of the (now operative) Waikato District Plan.

Code of Conduct

- 1.11 I confirm that I have read the Code of Conduct for Expert Witnesses 2014 contained in the Environment Court Practice Note and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state that I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

Scope of Evidence

- 1.12 This statement of evidence discusses the Fonterra Submissions (submitter ID 797) in respect of the matters addressed in the Section 42A Report prepared by Ms Susan Chibnall for Hearing 28: Other Matters.

- 1.13 In my evidence I:

- (a) provide a brief summary of the development history in the Horotiu / Te Rapa North area including the establishment of Fonterra's Te Rapa Dairy Factory;
- (b) summarise the planning history and the current planning regime relating to the Horotiu / Te Rapa North area;
- (c) Set out the relevant planning context;
- (d) Provide my analysis of the matters raised in Fonterra' submissions; and
- (e) Provide a brief conclusion.

2. THE HOROTIU / TE RAPA NORTH AREA

The Establishment of the Te Rapa Dairy Factory

- 2.1 In 1964, the New Zealand Co-operative Dairy Company Ltd made an application to the Waikato County Council to establish the Te Rapa Dairy Factory. The consent was granted subject to three conditions, namely that the development proceed in accordance with the plan submitted (note the 'singular' plan), that access was to be provided by way of a T-intersection to

be formed with State Highway 1, and that consultation regarding the design of the T-intersection was to be undertaken with the National Roads Board.

- 2.2 The site selected was approximately half way between Hamilton and Ngaruawahia (reflected in the name of the small hill to the south of the site where Te Rapa Road cuts through it, being "Half Way Hill"). As can be seen from the following aerial photograph (Figure 1), taken in 1971 not long after the opening of the Te Rapa Dairy Factory, the land uses surrounding the site were predominantly rural in nature (pastoral farming and a sand quarry on the opposite side of Te Rapa Road – formerly State Highway 1) along with a very low density of dwellings that were mostly associated with the rural activities being undertaken.
- 2.3 As can also be seen from the aerial photograph below (Figure 1), the Te Rapa Dairy Factory included a workers' village when it was first established. A workers' village was required as the Factory was so far out of town that it was considered too far for workers to commute to work.



Figure 1: Aerial Photograph of the Te Rapa Dairy Factory and Surrounding Land Uses in 1971

- 2.4 The Te Rapa Dairy Factory was commissioned in 1967 and underwent major expansions in 1989 and again in the late 1990s. The site has continued to

periodically expand since the last major expansion in the late 1990s and, given its strategic location, is likely to do so in future. The latest project involved the addition of a small evaporator to the Cream Plant to allow for the production of a new cream product. The availability of land on the site and its zoning (wherein dairy processing is a permitted activity under the Hamilton City District Plan) make the Te Rapa Dairy Factory a good option for future development of additional processing capacity. Other factors, such as the proximity of the site to a large workforce, to State Highway One, the Fonterra Crawford St stores, Ports or Auckland's Inland Port, and the future Ruakura Inland Port, also make it an attractive option for further development.

2.5 The Te Rapa Dairy Factory:

- (a) is the largest dairy manufacturing site in the Waikato Region in terms of processing capacity and people employed;
- (b) processes approximately 8 million litres of milk per day during the peak of the dairy season;
- (c) produces about 250,000 tonnes of milk powder per annum from the four milk powder dryers with a combined throughput of 42 tonnes per hour, and 75,000 tonnes of cream products per annum from the cream plant;
- (d) employs approximately 380 staff (excluding tanker drivers and contractors), with seasonal variations; and
- (e) has a replacement capital value of approximately \$869 million.

2.6 Having established the Te Rapa Dairy Factory in an appropriate location away from sensitive land uses (apart from a small number of rural dwellings), Fonterra and its predecessors have contended with successive planning regimes and proposals that could or would give rise to the establishment of incompatible land uses adjacent, or in close proximity, to the Te Rapa Dairy Factory. This has included planning provisions that allow for rural residential subdivision and development, as well as applications for a rural residential farm park. Fonterra has had mixed success in avoiding the establishment of incompatible land uses adjacent, or in close proximity, to the Te Rapa Dairy Factory. There is a Country Living Zone on the opposite side of the Waikato River, as detailed in the Section 42A Report. More recently, Hamilton City Council approved Plan Change 2 to the Hamilton City District Plan which provides for 1,100 residential lots on a site 300m to the north of the Te Rapa Dairy Factory (Te Awa Lakes).

3. PLANNING AND REGULATORY HISTORY OF HOROTIU / TE RAPA NORTH AREA

3.1 The industrial nature of activities within the Horotiu / Te Rapa North area (including large-scale heavy industrial activities) has been recognised and provided for in successive policy and planning documentation prepared under the RMA as well as other related documents (and previous legislation). I set this history out here as it is important to recognise that the Te Rapa Site itself is within Hamilton City, and the area across the river is within the Waikato District.

- (a) The 1972 Hamilton Area Study, which confirmed that, due to the existence of the Te Rapa Dairy Factory (and Horotiu Freezing Works), the area should be regarded as an "area of restraint" and that urban residential development should be directed elsewhere.
- (b) The 1995 Waikato District Plan zoned the Horotiu Freezing Works and land to the south as a Special Industrial Area. The Te Rapa Dairy Factory was zoned as a Dairy Industrial Zone.
- (c) The Horotiu Industrial Study was prepared for Waikato District Council in 2004 by Environmental Management Services Ltd (now part of Mitchell Daysh Ltd). It involved extensive consultation and (with the support of the vast majority of landowners in the area) recommended that the Horotiu / Te Rapa North area be zoned for Heavy Industrial Purposes – an outcome that was largely reflected in the Proposed Waikato District Plan (dated 25 September 2004). Following the resolution of appeals, a combination of Heavy Industrial, Industrial and Deferred Industrial zoning was confirmed for the Horotiu / Te Rapa North area in the Waikato District Plan. This included a "Noise Control Boundary" ("NCB"), with Rule 24.19AA of the Waikato District Plan setting out that:

Any activity on the Te Rapa Dairy Factory site is a permitted activity if it is designed and conducted so that the night-time noise from site activities, other than construction noise, measured at the Noise Control Boundary shown on Planning Map 37 does not exceed 45dBA (Leq). Any activity that does not comply with the condition for a permitted activity is a discretionary activity.

- (d) The 2005 Strategic Agreement on Future Urban Boundaries agreed between Hamilton City Council and Waikato District Council following public consultation provided for the future transfer of all land located

between the Hamilton City boundary and the Waikato Expressway to the west of the Waikato River, to be developed for industrial purposes. The subsequent transfer of the land to Hamilton City in 2011 gave effect to that intention.

- (e) The specific provisions relating to the Te Rapa site in the Waikato District Plan were essentially then transferred to the Hamilton City District Plan.
- (f) Future Proof (the Waikato Sub-Regional Growth Strategy) identified the Horotiu / Te Rapa North area as a Strategic Industrial Node.
- (g) The outcomes set out in Future Proof were subsequently given statutory weight in the operative Waikato Regional Policy Statement, the Waikato District Plan (relating to the Horotiu area) and the Hamilton City District Plan (relating to the Te Rapa North area).

4. CURRENT POLICY AND PLANNING FRAMEWORK

- 4.1 The following section of my evidence identifies the relevant provisions of the statutory planning framework applicable the Te Rapa Dairy Factory

Future Proof

- 4.2 Future Proof (the Waikato Sub-Regional Growth Strategy) identifies the Horotiu / Te Rapa North area as a Strategic Industrial Node. The key aspects of Future Proof (including the land use pattern) have been given statutory weight by way of provisions incorporated into the Waikato Regional Policy Statement (“**Waikato RPS**”), Waikato District Plan and the Hamilton City District Plan.

Waikato Regional Policy Statement (Waikato RPS)

- 4.3 The Te Rapa site forms part of a Strategic Industrial Node identified in the Waikato RPS.
- 4.4 The Te Rapa Dairy Factory is identified in the Waikato RPS as a 'Regionally Significant Industry', defined in the Waikato RPS as follows:

“Regionally significant industry - means an economic activity based on the use of natural and physical resources in the region and is identified in regional or district plans, which has been shown to have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits.”

4.5 The Waikato RPS sets out an extensive range of strongly worded policy directives in relation to the built environment, including Regionally Significant Industry, as follows:

- (a) "integrating land use and infrastructure planning, including by ensuring that development of the built environment does not compromise the safe, efficient and effective operation of infrastructure corridors";¹
- (b) "minimising land use conflicts, including minimising potential for reverse sensitivity";²
- (c) "The management of natural and physical resources provides for the continued operation and development of regionally significant industry ... by ... recognising the value and long-term benefits of regionally significant industry to economic, social and cultural wellbeing ... [and] ... avoiding or minimising the potential for reverse sensitivity";³
- (d) "Local authorities should have particular regard to the potential for reverse sensitivity when assessing resource consent applications, preparing, reviewing or changing district or regional plans and development planning mechanisms such as structure plans and growth strategies. In particular, consideration should be given to discouraging new sensitive activities, locating near existing and planned land uses or activities that could be subject to effects including the discharge of substances, odour, smoke, noise, light spill, or dust which could affect the health of people and / or lower the amenity values of the surrounding area.";⁴
- (e) "where alternative industrial and residential land release patterns are promoted through district plan and structure plan processes, justification shall be provided to demonstrate consistency with the principles of the Future Proof land use pattern";⁵
- (f) "maintain industrially zoned land for industrial activities unless it is ancillary to those industrial activities, while also recognising that

¹ Waikato RPS Objective 3.12(c).

² Waikato RPS Objective 3.12(g).

³ Waikato RPS Policy 4.4.

⁴ Waikato RPS – Implementation Method 6.1.2.

⁵ Waikato RPS – Policy 6.14(g).

specific types of commercial development may be appropriately located in industrially zoned land";⁶ and

- (g) "New development should ... be directed away from identified regionally significant industry ... [and] ... not result in incompatible adjacent land uses (including those that may result in reverse sensitivity effects), such as industry, rural activities and existing or planned infrastructure".⁷

4.6 In my opinion, the RPS provide a clear directive that the PDP must include measures to avoid or minimise the potential for reverse sensitivity effects on established regionally significant industries.

5. ANALYSIS OF FONTERRA'S SUBMISSIONS

5.1 Fonterra's submission sought the inclusion of the NCB in the Proposed Waikato District Plan, as it relates to the Waikato District.

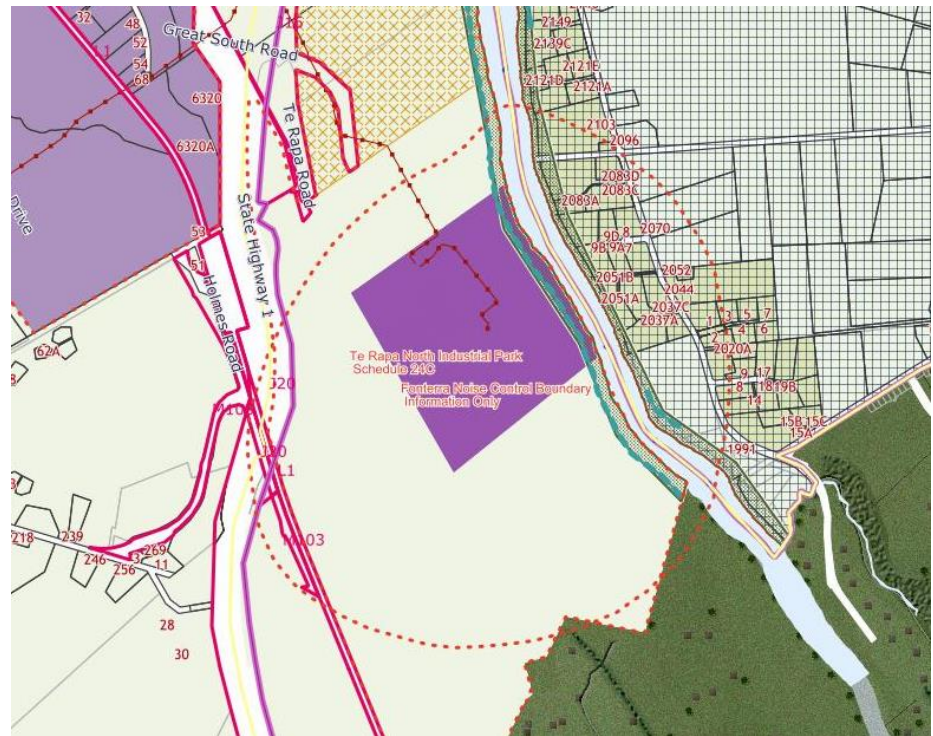
5.2 Specifically, the submission sought:

- (a) A new non-complying activity rule in the Country Living Zone restricting sensitive activities (which was not supported by the author of the Section 42A report relating to the Country Living Zone).
- (b) The inclusion of additional provisions in Appendix 1 Acoustic Insulation, requiring sensitive activities within the NCB to be acoustically insulated.
- (c) An amendment to the planning maps to identify the extent of the NCB.

5.3 The NCB is shown in the following figure:

⁶ Waikato RPS – Policy 6.16(f).

⁷ Waikato RPS – Section 6A Development Principles (h) and (o).



- 5.4 Ms Chibnall addresses the NCB at paragraph 194 of the Section 42A Report, stating:

Fonterra Limited [797.39] submission seeks to amend the Planning maps to include the extent of the Te Rapa Dairy Facility Noise Control Boundary. A further submission from Mercury Energy [FS1387.1277] has opposed the submission. This site was discussed in Hearing 12: Country Living Zone, where the s42A report writer for that hearing explained that the Noise Control Boundary has no provisions associated with it and was for information purposes only. In my view the overlay serves no purpose unless there are provisions associated with it. To include the overlay on the planning maps in my view adds unnecessary clutter and creates confusion for plan users. I recommend that the Hearing Panel reject Fonterra Limited [797.39].

- 5.5 I do not agree that the NCB overlay serves no purpose. In my view, the NCB overlay provides a clear signal to those in the Country Living Zone, and within the NCB, that Fonterra is authorised to generate a certain level of noise. It is therefore an important part of managing the potential for reverse sensitivity by avoiding false expectations through signalling in the plan that there may be potential noise related amenity effects which are beyond the otherwise permitted activity noise limits associated with the Country Living Zone.

- 5.6 In my view, the NCB should be shown on the planning maps, for information purposes at the very least, and with a clear link directing plan users to the Hamilton City District Plan where Rule 25.8.3.8 states:

25.8.3.8 Te Rapa Dairy Manufacturing Site Noise Emission Boundary

- a) Any activity within the Te Rapa Dairy Manufacturing Site shall be designed and conducted so that noise from site activities, other than construction noise, measured at the Te Rapa Dairy Manufacturing Site Noise Emission Boundary shown on Planning Maps 1B, 2B, 6B and 7B and Figure 6-6 in Volume 2 shall not exceed 45 dB L_{Aeq} (15 min).

6. SECTION 32AA

- 6.1 Section 32AA of the RMA, requires that:

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.
- (2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).

- (3) In this section, proposal means a proposed statement, national planning standard, plan, or change for which a further evaluation must be undertaken under this Act.

6.2 In my opinion, showing the NCB on the PDP planning maps, with a note linking the NCB to the provisions of the Hamilton City District Plan, assist with the directive of “avoiding or minimising” reverse sensitivity and also provides integration between the Hamilton City District Plan and the PDP.

7. CONCLUSION

7.1 I consider that the additional amendments outlined in my evidence are necessary to give effect to the Waikato RPS, and to ensure that the potential for reverse sensitivity effects on the Te Rapa site are minimised.

Mark Chrisp
21 June 2021