Your Ref

In reply please quote LUC0375/18.02

If calling, please ask for Sara Abusidou



19 March 2020

Postal Address
Private Bag 544, Ngaruawahia 3742

0800 492 452 www.waikatodistrict.govt.nz

Babbage Consultants Limited PO Box 2027 Shortland Street Auckland 1140

Email: joe.gray@babbage.co.nz

Digitally Delivered

Dear Sir/Madam

# DECISION ON APPLICATION FOR \$127 TO CHANGE/CANCEL CONDITIONS OF RESOURCE CONSENT UNDER THE RESOURCE MANAGEMENT ACT 1991

Application number(s): LUC0375/18.02

Applicant

Synlait Milk Limited

Address:

45 McDonald Road POKENO

Legal Description

LOT I DP 463893

Proposal:

Changes to conditions 1, 3 and 19 regarding the volume of cleanfill

imported to the site.

I wish to advise you of Council's decision to **grant** your application for resource consent under the Resource Management Act 1991 (RMA). Please see below for the details of the decision and conditions of consent.

The following information provides you with some guidance on your rights and what to do next. It is recommended that you seek independent advice if you are in any doubt as to the processes to be followed:

#### **Objections**

If you disagree with any part of this decision or any conditions of this consent, you may lodge an objection in writing to Council within **15 working days** of the receipt of this letter. Your objection must be in accordance with section 357 of the RMA and must include the reasons for your objection.

If you decide to lodge an objection to this consent, please note that you cannot lodge a section 223/224 application for subdivision.

#### Compliance with conditions

Your resource consent permits the land use to be established at the site as long as the activity complies with the stated conditions on an ongoing basis. It is important that you fully understand and comply with all the conditions of your consent.

Please notify Council's monitoring team prior to the commencement of activities associated with this consent. The role of Council's monitoring team is to monitor compliance with the conditions of consent and may involve site visits.

Council's monitoring team can be contacted at <a href="monitoring@waidc.govt.nz">monitoring@waidc.govt.nz</a> or 07 824 8633. Please reference the consent number and address of the property when emailing or calling.

# Lapsing of Consent/s

This resource consent lapses 5 years after the commencement of the consent, unless the consent is given effect to by the end of that period.

The commencement date of a resource consent is determined by section 116 of the Resource Management Act 1991.

Yours faithfully

Jessica Thomas

**CONSENTS ADMINISTRATION** 

Cc: Synlait Milk Limited

Email: penny.gallagher@synlait.com

# **Decision on Application to Change or Cancel Resource Consent Conditions**



(Section 127, Resource Management Act 1991)

www.waikatodistrict.govt.nz

Pursuant to Sections 34(A)(I) and I27 of the Resource Management Act 1991, the Waikato District Council, under delegated authority, gives approval for changes to conditions of an approved resource consent as follows:

**Application Number:** 

LUC0375/18.02

**Resource Consent** 

LUC0375/18

Number:

Applicant:

Synlait Milk Limited

Subject:

Changes to conditions 1, 3 and 19 regarding the volume of

cleanfill imported to the site.

**Location Address:** 

45 McDonald Road POKENO

**Legal Description:** 

LOT I DP 463893 as comprised in Record of Title 614849

The resource consent is now subject to the Amended Conditions detailed in the attached Schedule 1.

The Reasons for this decision are detailed in the attached Schedule 2.

**CONSENTS TEAM LEADER** 

Dated: 19 March 2020



#### Schedule I

# Conditions of Consent

Resource Consent No: LUC0375/18.02

Changes shown in italics and/or underlined. Deletions shown as "deleted".

#### **General Conditions**

- The development shall be undertaken in general accordance with the information and plans submitted by the Consent Holder in support of application number LUC0375/18 & LUC0375/18.02 and officially received by Council on 5<sup>th</sup> of March 2018 & 7<sup>th</sup> of February 2020 and further information received 13<sup>th</sup> of March 2018 & 5<sup>th</sup> of March 2020 except as amended by the conditions below. Copies of the approved plans are attached. In the case of inconsistency between the application and the conditions of this consent, the conditions of consent shall prevail.
- Pursuant to Section 36 of the Resource Management Act 1991 the Consent Holder shall pay the actual and reasonable costs incurred by the Waikato District Council when monitoring the conditions of this consent.
- The maximum amount of earthworks shall be no more than 220,000m<sup>3</sup> and the maximum volume of cleanfill deposition shall be 22,000m<sup>3</sup>.
- The Consent Holder shall ensure that all fill imported to the site meets the following definition of cleanfill.

Cleanfill means any material that has no potential or actual ability to adversely affect the environment. This material should be of a natural origin such as clay, rock and soil, and other material, such as clean concrete, brick and demolition products that are free of combustible and organic materials, substantially free of voids, and not subject to biological breakdown.

All construction work on the site shall be designed and conducted to ensure that construction noise from the site does not exceed the noise limits in the following table. Sound levels shall be measured and assessed in accordance with the provisions of NZS 6803:1999 Acoustics – Construction Noise.

Time	Weekdays (dBA)		Saturdays (dBA)	
	L <sub>eq</sub>	L <sub>max</sub>	$L_{eq}$	L <sub>max</sub>
0700 - 0730	55	75	45	75
0730 - 1800	70	85	70	85

- 6 Hours of operation (including start up of machinery) is restricted to the following:
  - Monday to Saturday: 7am to 6pm
  - and at no time on Sundays or Public Holidays

#### **Prior to Works**

Prior to importing any cleanfill to the site, the Consent Holder shall submit a Cleanfill Management Plan to the Waikato District Council.

The Cleanfill Management Plan shall be designed to ensure that the management of the cleanfilling activities on site is undertaken in accordance with the conditions of this consent and shall set out the practices and procedures to be adopted in order to minimise the adverse effects arising from the cleanfilling activities.

The Cleanfill Management Plan shall be to the satisfaction of Waikato District Council's Team Leader: Monitoring.

The Cleanfill Management Plan shall be in accordance with 'A Guideline to the Management of Cleanfills (2002)' or any document that supersedes this document prepared by the Ministry for the Environment.

The Cleanfill Management Plan shall include at a minimum, the following:

- (i) Details of the operational procedures and monitoring that will be implemented to prevent unauthorised or contaminated material from entering the site. This shall include procedures that:
  - (a) Include a list of all material to be accepted in the cleanfill;
  - (b) Identify the source location (property address) of cleanfill imported to the site including identification of land uses carried out at the source location; and
  - (c) Ensure that fill from source locations associated with land use activities that appear on the Ministry for Environment 'Hazardous Activities and Industries List' is not brought onto the site unless investigated in accordance with the Ministry for Environment 'Contaminated Land Management Guidelines' and shown not to be contaminated.
  - (d) Ensure that no material is accepted into the site where drilling fluids have been used during excavation of such material
- (ii) Procedures to record the name and address of contractors dumping the fill on the site;
- (iii) Detail how rejected material will be stored pending disposal to an authorised landfill, including likely authorised landfill and the period of time the rejected material will be stored pending removal;
- (iv) Construction procedures to ensure the long term stability of cleanfill areas;
- (v) A testing regime in accordance with the recommendations of Ministry for the Environment's 'A Guide to the Management of Cleanfills, 2002' and with the requirements of the Regional Council consent for the cleanfilling operation
- (vi) Cleanfill loads inspection and checklist formats;
- (vii) Maintenance, monitoring and inspection procedures;
- (viii) Incident section relating to the recording and auctioning of complaints
- (ix) Contingency and mitigation measures;

Prior to commencing any engineering design or construction works, the Consent Holder shall appoint appropriately qualified and competent **Developer's Representative/s**, acceptable to Waikato District Council, to provide all designs, supervision, certification and final signoff, in accordance with the requirements of the Hamilton Infrastructure Technical Specifications (ITS).

#### **Advice Note:**

The ITS can be found under the following link: <a href="http://www.hamilton.govt.nz/our-council/council-publications/manuals/Pages/Proposed-Infrastructure-Technical-Specifications.aspx">http://www.hamilton.govt.nz/our-council/council-publications/manuals/Pages/Proposed-Infrastructure-Technical-Specifications.aspx</a>

It is recommended that the Consent Holder and Developer's Representative/s read and understand the ITS prior to commencement of engineering design or physical works.

- 9 The consent holder shall notify Waikato District Council's Team Leader-Monitoring, in writing, of their intention to begin works prior to commencing works. Such notification shall include the following details:
  - (a) Name/s and telephone number/s of the accepted **Developer's Representative/s**.
  - (b) Site address to which the consent relates.
  - (c) Works intended to be undertaken.
  - (d) Expected duration of works.

#### Advice note

To notify Waikato District Council Monitoring Department, email <a href="monitoring@waidc.govt.nz">monitoring@waidc.govt.nz</a> with the consent number, address of property and date for when the works will commence.

Prior to undertaking any soil disturbing activities, the Consent Holder shall install erosion and sediment control measures in accordance with the Waikato Regional Council's Erosion and Sediment Control Guidelines for Soil Disturbing Activities: January 2009. Once the earthworks are complete, the Consent Holder shall ensure that, as soon as possible, and within a maximum of I month, the areas where soil disturbing activities were undertaken are revegetated (or by other approved means) to achieve a minimum 80% coverage.

Erosion and sediment controls shall be maintained and remain in place until (at least) the minimum required cover is achieved, and may only be removed once the Waikato District Council's Team Leader-Monitoring is satisfied that the risk from erosion and instability has been reduced to a less than minor risk and has provided approval in writing.

Prior to undertaking any earthworks, the consent holder shall establish and maintain a "Stabilised Construction Entrance", generally in accordance with the approved plans. The location of this site entrance shall be approved by the Waikato District Council's Senior Development Engineer prior to the commencement of works.

- Prior to beginning any earthworks which require the erection of retaining walls on the site, the consent holder shall:
  - (a) Provide engineering designs/plans and a construction programme (which shall include details on the timing of earthworks and retaining wall construction) for the retaining walls. These designs/plans are to be submitted to, and gain the approval of, the Waikato District Council's Team Leader-Monitoring OR provide evidence of an approved building consent and PSI for the construction of the retaining walls to the satisfaction of Waikato District Council's Team Leader-Monitoring.

### Contaminated Land

- Prior to undertaking earthworks activities in the area of identified asbestos contamination in the report 'Preliminary Site Investigation and Remedial Action Plan' ('PSI & RAP') prepared by Babbage Consultants Ltd, Job No:200017338 and dated 16 March 2018, the consent holder shall remediate the asbestos contamination. The remediation shall be undertaken in accordance with the remediation action plan detailed in the PSI & RAP
- 14 Following the remediation of the area of contamination identified in the PSI & RAP the consent holder shall submit a site validation report prepared by a suitably qualified and experienced practitioner in accordance with the current edition of the Ministry for the Environment Contaminated Land Management Guidelines No.1 Reporting on Contaminated Sites in New Zealand to the satisfaction of Waikato District Council's Contaminated Land Specialist.
- All material removed from the site in the course of the remedial works shall be disposed of at a site suitably licensed for receipt of material of that type. Receipts for disposal shall be included in the site validation report.

#### **Advice Note**

The Waikato Regional Plan contains rules relating to discharges from remediation of contaminated land. Any discharge arising from remediation of contaminated land that does not comply with Rules 5.3.4.6 and 5.3.4.7 of the Waikato Regional Plan is a discretionary activity and will require resource consent from Waikato Regional Council.

- Prior to the demolition and removal of existing structures on the site the consent holder shall:
  - (i) Undertake an asbestos building survey of each structure confirming by laboratory testing the presence/absence of asbestos of any material suspected of containing asbestos. Such work shall be undertaken by a suitably qualified asbestos specialist.
  - (ii) Where asbestos is confirmed to be present, ensure the safe removal of the asbestos containing material (ACM) to a site suitable for the receipt of such material. Such works shall be undertaken by a suitably qualified asbestos removal specialist.
  - (iii) Submit an asbestos clearance certificate prepared by the asbestos specialist confirming the results of the building survey and, where ACM has been removed, details of the material removed including quantity and disposal location.

(iv) Where ACM has been identified and subsequently removed, submit soil validation samples in the form of a site validation report prepared and reported by a suitably qualified and experienced practitioner in accordance with the current edition of the Ministry for the Environment Contaminated Land Management Guidelines No.I – Reporting on Contaminated Sites in New Zealand to the satisfaction of Waikato District Council's Contaminated Land Specialist.

#### Advice Note

For convenience site validation requirements required by conditions 14 and 16 may be included in one site validation report.

#### **During Works**

- All earthworks activities carried out on site shall be conducted and managed in accordance with the Dust Management Plan prepared by Babbage Consultants Limited dated 27 February 2018 unless otherwise required through the conditions of this resource consent or those of any regional council consent for the proposed earthworks.
- During earthworks, the site shall be managed in such a way that dust emissions do not cause an objectionable effect beyond the boundaries of the site to the satisfaction of Waikato District Council's Team Leader Monitoring.

#### Advice Note:

For the purposes of this condition, the Waikato District Council Monitoring Department will consider an effect that is objectionable or offensive to have occurred if any appropriately experienced officer of the Waikato District Council determines so after having regard to:

- The frequency, intensity, duration, location and effect of dust emission(s); and/or,
- Receipt of complaints from neighbours or the public; and/or,
- Where relevant written advice from an experienced officer of the Waikato Regional Council or the Waikato District Health Board has been received.
- The earthworks shall be undertaken in two separate stages as outlined in the earthworks plans included within the application documents of LUC0375/18 and LUC0375/18.02. The Stage I earthworks area shall be topsoiled and/or removed from the site and stabilised prior to the commencement of bulk earthworks activities commencing within Stage 2 unless otherwise agreed in writing by the Waikato District Council.
- The consent holder shall ensure that an adequate supply of water for dust control (sufficient to apply a minimum of 5 mm/day to all exposed areas of the site during the winter period, and a minimum of 10 mm/day to all exposed areas of the site during the summer period), and an effective means for applying that quantity of water, is available at all times during construction, and until such time as the site is fully stabilised.
- The consent holder shall ensure that, at all times, the soil moisture of exposed areas is maintained at sufficient levels, under prevailing wind conditions, to prevent dust generated by normal earthmoving operations from remaining airborne beyond the boundary of the work site.

- The consent holder shall ensure that, outside of normal working hours, staff are available on-call at all times to operate the water application system for dust suppression.
- If so required by the Waikato District Council, the consent holder shall carry out immediate sealing of any problematic dust generating surfaces within the site using hydro-seed/hydro-mulch (or similar paper maché based product), polymer soil stabilisers or a similar dust control product to provide instant remediation of dust effects to the satisfaction of the Waikato District Council.
- 24 Management of the earthworks shall be in general accordance with the application document and appendices provided, unless otherwise agreed, in writing with Waikato District Council's Team Leader-Monitoring.
- Any underfill drainage systems shall be designed by, and their installation supervised by, a suitably qualified and experienced Chartered Professional Engineer (CPEng) and their position recorded by a Registered Surveyor.
- The site shall be stabilised against erosion as soon as practicable and in a progressive manner as earthworks are finished over various areas of the site. Appropriate methods of site stabilisation may include re-spreading of topsoil and grassing, hay mulching or placement of aggregate surfaces (roads/building platforms). The consent holder shall monitor and maintain the site until stabilisation is achieved to such an extent that it prevents erosion and prevents sediment from entering any watercourse.

# **Complaints**

- If any complaints are received by the consent holder regarding the activities authorised by this consent, the consent holder shall notify the Waikato District Council's Team Leader-Monitoring of those complaints as soon as practicable and no longer than one working day. When/if complaints are received; the consent holder shall record the following details in a Complaints Log:
  - i. Time and type of complaint, including details of the incident, e.g. duration, any effects noted;
  - ii. Name, address and contact phone number of the complainant (if provided);
  - iii. Location from which the complaint arose;
  - iv. The weather conditions and wind direction at the time of any dust or noise complaint;
  - v. The likely cause of the complaint;
  - vi. The response made by the consent holder including any corrective action undertaken by the consent holder in response to the complaint; and
  - vii. Future actions proposed as a result of the complaint.

The register shall be available to the Waikato District Council at all reasonable times. Complaints received by the consent holder that may indicate non-compliance with the conditions of this resource consent shall be forwarded to the Waikato District Council's Team Leader-Monitoring in writing within 24 hours of the complaint being received.

#### **Post Works**

After completion of the earthworks, and prior to undertaking any building works, the consent holder is to provide a "Statement of Professional Opinion as to Suitability of Completed Earthworks" completed and signed by a Geo-professional (who carries appropriate professional indemnity insurance for the works being supervised/certified).

The format for the "Statement of Professional Opinion as to Suitability of Completed Earthworks" shall be as per Volume 4, Part 2 checklist 2.2 of the Hamilton City Council Development Manual.

The Statement is to be accompanied by the following:

- (a) A schedule with dates/results etc of all supervision and testing undertaken to certify the areas of cut/fill, and
- (b) An as-built plan of the earthworks, clearly showing the areas/depths of cut and fill, and defining areas of fill which have been engineered, and those areas of fill which have not been engineered.

The above is to be submitted to, and gain the approval of, the Waikato District Council's Team Leader-Monitoring prior to undertaking any building works on site.

- Pursuant to Sections 128 to 131 of the Resource Management Act (1991), the Council may serve notice on the consent holder of its intention to review the conditions of this consent at any time within the first 6 months of this consent being exercised, and 6 monthly thereafter for a period of up to five (5) years if necessary, for the purpose of:
  - (a) To review the effectiveness of the conditions of this consent in avoiding, remedying, or mitigating any adverse effect on the environment that may arise from the exercise of this resource consent (in particular the potential adverse environmental effects in relation to dust and noise), and if necessary to avoid, remedy or mitigate such effects by way of further or amended conditions;

The Council will undertake the review in consultation with the Consent Holder and the Consent Holder shall pay the actual and reasonable costs of the review. Fourteen days' notice of the review shall be provided to the Consent Holder.

# **Advisory Notes**

#### Lapse Date

This Resource Consent for land use lapses five years after the commencement of the consent, unless:

(a) the Consent is given effect to prior to that date.

or

- (b) an application is made to the consent authority to extend the period after which the consent lapses, and the consent authority decides to grant an extension after taking into account
  - (i) whether substantial progress or effort has been, and continues to be, made towards giving effect to the consent; and
  - (ii) whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension; and
  - (iii) the effect of the extension on the policies and objectives of any plan or proposed plan.

#### 2 Other consents/permits may be required

To avoid doubt; except as otherwise allowed by this resource consent, all land uses must comply all remaining standards and terms of the relevant Waikato District Plan. The proposal must also comply with the Building Act 2004, Hamilton City Council Infrastructure Technical Specifications and Waikato Regional Plans. All necessary consents and permits shall be obtained prior to development.

# 3 Health and Safety at Work (Asbestos) Regulations 2016

Regulation 21 of the Asbestos Regulations 2016 requires that asbestos must be identified and removed before demolition of a structure or plant.

Regulation 34(1) of the Asbestos Regulations 2016 Notification requires that notification be made to WorkSafe New Zealand at least 5 days before work commences. Under Regulation 34(2), there are circumstances where licensed asbestos removal work can begin immediately.

The form for notification of licensed asbestos removal can be found at: <a href="http://forms.worksafe.govt.nz/asbestos-removal-notification">http://forms.worksafe.govt.nz/asbestos-removal-notification</a>.

All material containing asbestos and any affected soil shall be disposed of at a suitably licensed facility.

In addition to contacting Work Safe New Zealand, it is requested that you also contact Council's Monitoring Department at <a href="monitoring@waidc.govt.nz">monitoring@waidc.govt.nz</a> with the consent number, address of property and date of when works ceased.

# 4 Archaeological sites may be affected by the proposal

It is possible that archaeological sites may be affected by the proposed work. Evidence of archaeological sites may include burnt and fire cracked stones, charcoal, rubbish heaps including shell, bone and/or glass and crockery, ditches, banks, pits, old building foundations, artefacts of Maori and European origin or human burials.

The applicant is advised to immediately stop work and contact Heritage New Zealand Pouhere Taonga if the presence of an archaeological site is suspected. Work affecting archaeological sites is subject to a consenting process under the Heritage New Zealand Pouhere Taonga Act 2014. If any activity associated with this proposal, such as earthworks, fencing or landscaping, may modify or destroy any archaeological site(s), an authority (consent) from Heritage New Zealand Pouhere Taonga must be obtained for the work to proceed lawfully. The Heritage New Zealand Pouhere Taonga Act 2014 contains penalties for unauthorised site damage.

In addition to contacting Heritage New Zealand Pouhere Taonga, it is requested that you also contact Council's Monitoring Department at <a href="mailto:monitoring@waidc.govt.nz">monitoring@waidc.govt.nz</a> with the consent number, address of property and date of when works ceased.

#### 5 Enforcement Action

Failure to comply with the conditions of consent may result in Council taking legal action under the provisions of Part 12 of the Resource Management Act (1991).

#### **Debris**

The consent holder should take all practical measures to ensure that any debris tracking/ spillage onto any public roads as a result of the exercise of this consent shall

be removed as soon as practical, and within a maximum of 24 hours after the occurrence, or as otherwise directed by the Waikato District Council's Roading Area Engineer, to the satisfaction of the Waikato District Council's Team Leader-Monitoring.

The consent holder, upon becoming aware of the need to clean up the roadway, shall advise Waikato District Council's Roading Area Engineer of the need for the road to be cleaned up, and what actions are being taken to do so.

The cost of the cleanup of the roadway and associated drainage facilities, together with all temporary traffic control, should be the responsibility of the consent holder.

# **Counties Power**

7 The consent holder should be aware of the requirements for Close Approach Permits from Counties Power and should apply for one if necessary.



# Schedule 2

# **Reasons for Decision**

Resource Consent No: LUC0375/18.02

- 1. Council is satisfied that the changes to condition 1, 3 and 19 in regards to the volume of cleanfill deposition can be granted pursuant to section 127 of the Resource Management Act, on a non-notified basis, for the following reasons:
  - (a) That the changes are such that potential adverse effects on the environment will be acceptable and the scale of effects are not considered to be more than that which was originally consented to; and
  - (b) That the changes will be consistent with the relevant objectives and policies of the Operative Waikato District Plan; and
  - (c) That the changes meet the purpose and principles of the Resource Management Act 1991.

