

# Decision on Application to Change or Cancel Resource Consent Conditions

(Section 127, Resource Management Act 1991)



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Pursuant to Sections 34(A)(1) and 127 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:** LUC0403/18.01  
**Applicant:** Synlait Milk Limited  
**Subject:** s127 Change to Conditions 1 and 3 of LUC0403/18  
**Location Address:** 45 McDonald Road, Pokeno  
**Legal Description:** Lot 1 DP 463893 comprised in Computer Freehold Register 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.

A handwritten signature in blue ink, appearing to read "J. Wong". The signature is written in a cursive style with a horizontal line underneath it.

**CONSENTS TEAM LEADER**

**Dated:** 7 December 2018

## Schedule I

# Conditions of Consent

### Resource Consent No: LUC0403/18.01

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

#### General Conditions

- 1 The development shall be undertaken in general accordance with the information and plans submitted by the Consent Holder in support of application number LUC0403/18 and officially received by Council on 19th of March 2018 and further information received on the 17<sup>th</sup> April 2018, *except where substituted by the information and plans submitted by the Consent Holder in support of application number LUC0403/18.01 received by Council on the 29 October 2018.* ~~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.
- 2 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.

#### Building/structure height and colours

- 3 The dimensions of the buildings/structures must not exceed:
  - (a) A maximum finished height of 40 metres for the dryer tower;
  - (b) A maximum finished height of 45 metres for the dryer exhaust stacks;
  - (c) A maximum finished height of 40 metres for the boiler and diameter of 900mm; and
  - (d) The *dryer tower buildings* shall be an ~~"off-white"~~ of *light neutral and/or light blue colouration*.

#### Hazardous substances

- 4 All hazardous substances shall be operated/maintained and/or managed (including any emergency response plans or procedures which are to be put in place in respect of these substance/s) in accordance with any approved Hazardous Substances Management Plan and/or any amended management plan.

#### Lighting

- 5 All exterior lighting shall be located and at all times directed, screened, adjusted, operated and maintained in accordance with any approved Lighting Plan and/or any amended lighting plan.

## Operational Traffic and Parking

- 6 All operational traffic and parking shall be undertaken in accordance with any approved Operational Parking and Traffic Management Plan.

## Prior to Construction

- 7 The Consent Holder shall notify the Waikato District Council Monitoring Department at least 10 working days prior to the commencement of activities associated with this consent.

### Advice note

To notify Waikato District Council Monitoring Department, email [monitoring@waide.govt.nz](mailto:monitoring@waide.govt.nz) with the consent number, address of property and date for when the works, or sections of the works, will commence.

## **Engineering Design Plans**

- 8 Prior to the undertaking the construction of any section of the works, the following engineering designs/plans (Rozading, Wastewater and Stormwater) relating to that section of works, shall be submitted to, and approved by, the Waikato District Council's Senior Land Development Engineer. Engineering designs for the overall project shall be undertaken in accordance with the following documents:

- (a) The Waikato District Plan (Franklin Section);
- (b) Hamilton Infrastructure Technical Specifications (ITS),
- (c) The Approved Plans (attached); and
- (d) Any proposed departures from the ITS shall be noted in a design Statement accompanying the engineering approval plans, for approval by Waikato District Council's Senior Land Development Engineer (ITS 1.1.5.1 and 1.5.2.1).

These designs/plans shall be accompanied by a completed Producer Statement Design (PS1).

## Rozading

- 8A Engineering Design Plans for vehicle entrances, accesses, internal circulation roads and car parking areas proposed that are part of the development shall be designed in general accordance with the plans provided with the application except where changed by conditions of consent. These designs shall include (but not be limited to):

- (a) 160 car parking spaces.
- (b) Be in accordance with:
  - (i) Traffic Design Group Synlait Milk Ltd – Project Green - Integrated Transportation Assessment Report dated March 2018; and
  - (ii) Babbage – Project Green 2, Preliminary Site, drawing number SK007.

## Stormwater

- 8B Engineering Design Plans for onsite stormwater treatment shall be in general accordance with the information provided with the application except where changed by conditions of consent or by any approved Waikato Regional Council stormwater consent. **Note:** Where any differences occur between the conditions/requirements of a granted Waikato Regional Council stormwater consent for the proposal and the granted Waikato District Council land use consent, the Waikato Regional Council stormwater consent shall take precedence.

The Engineering Design Plans shall include (but not be limited to):

The primary system shall be designed to cater for all runoff from all impervious areas, plus 10% (to a maximum of 100%), with a 16.8% allowance for climate change, rainfall depth of 34.5mm and being capable of emptying within a 24 hour period and shall incorporate methods of treatment that may include, but not be limited to, swales, underground proprietary treatment devices and rain gardens.

All flows in excess of the 20%AEP storm event and up to and including the 1%AEP storm event (with a 16.8% allowance for climate change) are to be contained within defined overland flowpaths.

## **Management Plans**

### Construction Traffic

- 9 The Consent Holder shall submit a Construction Traffic Management Plan to the satisfaction of Council's Senior Land Development Engineer. As a minimum, the Construction Traffic Management Plan shall include the following:
- (a) The site manager who would act as a point of contact for residents who have concerns with or queries regarding the construction activity
  - (b) The hours of construction activity, programming and timing of key construction phases and any special traffic issues (road closures, over-dimension loads, etc.)
  - (c) Coordination/programming to minimise impacts on market days and community activities
  - (d) Driver behaviour guidelines for contracted services/staff
  - (e) Procedures for dealing with complaints
  - (f) The measures that will be used to ensure that vehicles leaving the site do not deposit soil or other debris off-site, and if they do the remedial measures that are to be taken;
  - (g) An approved temporary traffic management plan in accordance with the NZTA Code of Practice for Temporary Traffic Management, including:
    - (i) Maintaining safe and accessible pedestrian routes around the site;
    - (ii) Minimising the level and duration of disruption to traffic;
    - (iii) The movement routes and volume of construction traffic on adjacent roads and the expected hours that this would occur;



- (iv) Location of the contractor parking facilities; and
- (v) Loading/laydown areas and any temporary vehicle crossings.

#### Hazardous Substances

- 10 Prior to the application for building consent(s) or prior to construction (where a building consent is not required) for sections of works, the Consent Holder shall either provide evidence to the satisfaction of Council, that a HSMP is not required for that section of work or that a HSMP has been approved by Council as required by this condition.

The Consent Holder shall submit a Hazardous Substances Management Plan to the satisfaction of Council's Environmental Health Manager, identifying: the type/s, quantities, location/s on site and/or position within the building/s of hazardous substances to be used on the site; and emergency response plans or procedures which are to be put in place in respect of these substance/s. The report shall include such drawings as may be appropriate to describe the activities being undertaken and their locations and copies of any relevant certificates under the Hazardous Substances and New Organisms Act 1996.

In addition, the HSMP shall include detailed plans of the hazardous substance storage facilities, which shall include, but not be limited to:

- (a) The volume of the bulk storage tanks
- (b) The capacity of bunding for each bulk storage tank (at least 10% of the tank volume)
- (c) Drainage details from the bunded areas.

#### Lighting

- 11 Prior to the application for building consent(s) or prior to construction (where a building consent is not required) for sections of works, the Consent Holder shall either provide evidence to the satisfaction of Council, that a LP is not required for that section of work or that a LP has been approved by Council as required by this condition.

The Consent Holder shall submit a Lighting Plan (LP) to the satisfaction of Council's Environmental Health Team Leader, identifying the location, type and specification of exterior lighting on the site and demonstrating compliance with the below;

- (a) 10 lux (lumens per square metre) at or within the boundary of any residential site between the hours of 10:00pm and 7:00am; and
- (b) 20 lux at or within the boundary of any residential site at all other times when lighting is required.

## **Design Report(s)**

### Noise

- 12 Prior to the application for building consent(s) or prior to construction (where a building consent is not required) for sections of works, the Consent Holder shall either provide evidence to the satisfaction of Council, that a AR is not required for that section of work or that a AR has been approved by Council as required by this condition.

The consent holder shall engage a suitably qualified and experienced acoustics expert to prepare a report to the satisfaction of Waikato District Council. The acoustic report (AR) shall demonstrate how the design complies with the noise limits detailed under Rule 29.5.1 b) of Part 29B of the Waikato District Plan Franklin Section, and shall include specific consideration of whether any adjustment for special audible characteristics shall apply in accordance with NZS6802:2008. If any design features (such as cladding) are required to be implemented, these shall be included as a part of any building consent application(s) and shall be maintained in perpetuity. For the avoidance of doubt, a copy of Rule 29.5.1 b) is attached with the consent (Appendix A) and the zoning and policy areas are applicable as of the date of consent granting.

**Advice Note:** Council may or may not have any report peer reviewed.

### During construction works

#### Engineering works

- 13 Construction of the works in the Council approved Engineering Design Plans shall be undertaken by the Consent Holder and the works approved by Waikato District Council's Senior Land Development Engineer.

#### Noise

- 14 All noise from construction, demolition and annual maintenance shall comply with the noise limits in accordance with the Standard NZS 6803:1999 Acoustics – Construction Noise.

### Construction Traffic - Parking

- 15 The Consent Holder shall ensure that sufficient onsite parking areas are provided for all vehicles associated with the construction phase. The parking areas shall be constructed of an all-weather surface, to the satisfaction of Council's Senior Land Development Engineer and all construction traffic shall be undertaken in accordance with any approved Construction Traffic Management Plan.

## **Post Construction but prior to commencement of production/processing**

- 16 Unless otherwise agreed by Waikato District Council, the consent holder will construct a new wastewater line that will connect to existing wastewater infrastructure within Market Street to service the site, prior to operation, and shall also:
- (1) Prior to construction of the reticulation/system, the consent holder shall provide a design of all infrastructure as part of the Engineering Plan Process. The proposed design shall be accompanied by a Producer Statement Design (PS1).
  - (2) The consent holder shall provide a 'Producer Statement — Construction' for the reticulated wastewater system(s) by all contractors having input to the constructed works.
  - (3) The consent holder shall provide a 'Producer Statement Construction Supervision (PS4)' on completion of the works.
  - (4) The consent holder shall provide to the satisfaction of the Waikato District Council, as-built information for the constructed wastewater reticulation/system in accordance with the requirements of the Hamilton City Council Infrastructure Technical Specification.

### Advice Note:

An example of an acceptable format for certification upon completion of works can be found in the Hamilton City Development Manual, Volume 4: Part 9 Appendix 4(ii).

- (5) A copy of a trade waste agreement.
- (6) If any wastewater reticulation or system(s) are proposed to be vested to Council, the following conditions will also be applicable:
  - (a) Written confirmation from Council's Senior Land Development Engineer that such proposal is acceptable to Council prior to Engineering Plan Approval.
  - (b) Wastewater reticulation/system(s) constructed during the development shall be subject to a Defects Liability period of up to 12 months at the discretion of Council. The defects liability period shall commence from the date of completion of the wastewater reticulation/system(s).

### Advice Note:

To meet the requirements of the above condition, prior any discharge to the reticulated wastewater system(s), the Consent Holder can provide a written guarantee to the General Manager Service Delivery that the terms and conditions of the Defects liability are acceptable and that a final inspection is carried out by Waikato District Councils Senior Land Development Engineer within the last month of the defects liability period.

If during the Defects Liability Period, Council considers that any remedial works need to be carried out in respect of the constructed works, the Consent Holder will be required to undertake these at their own cost, to the satisfaction of Council. Engineering plans for remedial works shall be submitted to and accepted by Council prior to construction.

Advice Note #2: A Developers Agreement may be required if it is proposed to vest any assets to Council.

Advice Note #3: The above wastewater works are only insofar as they relate to the current proposal (stage 1), and is based on WDC's initial assessment of capacity within the existing wastewater network, in addition, future modelling of the network may influence the timing of required upgrades (such as Market Street). Any additional stages or intensification of stage 1 may require additional infrastructure above and beyond any undertaken in compliance with this condition

### Hazardous Substances

- 17 Prior to the commencement of production/processing from the dairy factory, the Consent Holder shall provide to the Council copies of the location and stationary containment test certificates for the site required under the Hazardous Substances and New Organisms Act 1996.

### Operational Traffic

- 18 The Consent Holder shall submit an Operational Parking and Traffic Management Plan to the satisfaction of Council's Senior Land Development Engineer, which shall include the following:
- (a) The site manager who would act as a point of contact for residents who have concerns with or queries regarding the activity
  - (b) Communication, coordination and programming procedures to minimise impacts on market days and community activities
  - (c) Driver behaviour guidelines for contracted services/staff
  - (d) Procedures for dealing with complaints
  - (e) The measures that will be used to ensure that vehicles leaving the site do not deposit soil or other debris off-site, and if they do the remedial measures that are to be taken
  - (f) Arrangements to ensure that parking and loading is managed to ensure no off-site effects.

### Noise

- 19 The consent holder shall engage a suitably qualified and experienced acoustics expert to write a Noise Management Plan (NMP). The plan shall be submitted to the satisfaction of Waikato District Council prior to the operation of the dairy manufacturing site. The approved plan shall be implemented thereafter. The plan must remain on site always and be made available to council upon request.

The NMP must detail the management procedures to be adopted for the control of noise from the operation of the facility, including when and how the measures are to be implemented. Staff must be made aware of the document and the requirements therein. As a minimum, the NMP shall address the following matters:

- (a) Noise Management Plan objectives, including the management of “nuisance” noise.
- (b) Noise modelling, noise monitoring, auditing and reporting procedures.
- (c) Complaint handling procedures.
- (d) Procedures for managing noise through operational procedures and staff and contractor training.
- (e) Procedures for managing noise through plant upgrades, replacements, modifications and maintenance.
- (f) Procedures for alterations to the Noise Management Plan, including regular updates and reporting to Council.

#### Landscaping plan

- 20 The Consent Holder shall submit a Planting Plan by a suitably qualified professional, to the satisfaction of Council’s Team Leader: Monitoring or other nominated person(s).

The Planting Plan shall provide native hedging or trees within the subject site, adjacent to the front boundary.

And shall include:

- (1) The proposed landscaping as shown in the submitted Visual Amenity Effects Assessment, by Boffa Miskell, dated 14 March 2018,

The Planting Plan shall also;

- (a) Meet the requirements of the relevant design elements of the Subdivision Design criteria for Industrial 2 Zone within the Pokeno Structure Plan Area (Appendix 54.15B of the Waikato District Plan (Franklin Section));
- (b) Is designed to reduce potential adverse effects on the roading and underground service network in respect to:
  - (i) maintenance issues created by roots under the carriageways, vehicle entrances and footpaths;
  - (ii) obscured visibility for road users in respect to sightlines for intersections and vehicle entrances;
  - (iii) interference with underground services;
- (c) Provides, and continues a legible landscaping theme along the road;
- (d) Is in accordance with the Hamilton Infrastructure Technical Specifications or as deemed acceptable by the Waikato District Council Senior Land Development Engineer or nominee;
- (e) Includes a maintenance regime which ensures that all landscaped areas are maintained for a period of two years from the issue of the certificate of practical completion.
- (f) Specifications of the PB size and number of each species;
- (g) Preparation, planting, fertilising and staking requirements; and
- (h) Be in general accordance with the below;
  - (1) The intent of the planting is to provide a level of visual separation of the industrial site from the streetscape, while avoiding any potential damage to underground services within the vicinity

Unless an alternative planting scheme is approved by Council.

**Advice Note:** For the avoidance of doubt, the landscaping as shown in the submitted Visual Amenity Effects Assessment, by Boffa Miskell, dated 14 March 2018 is not subject to the requirements of (a-c) & (h)(1) above.

#### Planting Plan Implementation

- 21 Upon completion of the construction works, the planting detailed in the approved Planting Plan shall be undertaken within the first planting season, to the satisfaction of Council.

#### Post Construction but after commencement of production/processing

##### Noise

- 22 Within six months of the commencement of production/processing from the dairy factory, noise monitoring shall be undertaken by a suitably qualified person approved, to demonstrate that the specified noise limits in condition 12 are being met and a report be submitted to the satisfaction of Council's Environmental Health Manager. The report shall include sufficient monitoring and reporting of environmental and operational conditions to demonstrate that the operation of the dairy factory complies with the noise limits required.

Where the monitoring results indicate that compliance with the noise condition (condition 12) is not being achieved, any necessary remedial works shall be identified and undertaken to the satisfaction of the Council's Environmental Health Manager within a timeframe approved by the Council. When such works are finished, a suitably qualified acoustic engineer approved by the Council shall certify that the operation of the plant complies with the noise limit specified.

##### Lighting

- 23 Within three months of the commencement of production/processing from the dairy factory, the Consent Holder shall submit a report from a suitably qualified Professional Illumination Engineer to confirm that the lighting installation within any part of the site has been designed, installed, and directed in a manner that will ensure compliance with the approved Lighting Plan, to the satisfaction of the Council's Environmental Health Team Leader.

If the levels do not comply, the Consent Holder shall carry out rectification works and then carry out further monitoring to confirm compliance with the standards required. If an amended Lighting Plan of the compliant lighting is required, this shall be completed and provided to the Council within six months of the commencement of production/processing from the dairy factory.

##### Landscaping – Maintenance

- 24 All plantings undertaken in accordance with the approved Planting Plan are to be maintained to the satisfaction of Council. If any of the landscaping dies and/or becomes diseased, the dead and/or diseased landscaping shall be replaced in the same or similar location within the next planting season (generally between May and October) by a same or similar species of landscaping.

## **Review**

25 Pursuant to section 128 to 131 of the Resource Management Act 1991, the Waikato District Council may review any or all of the conditions of this consent after six months from the commencement of this consent and at one yearly intervals thereafter, serve notice on the consent holder of its intention to review any or all of the conditions of this consent for any of the following purposes:

- (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 noise, traffic, visual effects, landscape and amenity effects), and if necessary to avoid, remedy or mitigate such effects by way of further or amended conditions;
- (b) To address any adverse effects on the environment which have arisen as a result of the exercise of this consent that were not anticipated at the time of granting this consent, including addressing any issues arising out of complaints;
- (c) To review the adequacy of, and necessity for, any of the monitoring programmes or management plans that are part of the conditions of this consent;

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.

## Advisory Notes

### 1 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. This shall include appropriate discharge consents from the Waikato Regional Council.

### 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: <http://forms.worksafe.govt.nz/asbestos-removal-notification>.

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 [monitoring@waidc.govt.nz](mailto:monitoring@waidc.govt.nz) with the consent number, address of property and date of when works ceased.



#### 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 [monitoring@wairarapa.govt.nz](mailto:monitoring@wairarapa.govt.nz) with the consent number, address of property and date of when works ceased.

#### 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).

## **Schedule 2**

# **Reasons for Decision**

**Resource Consent No: LUC0403/18.01**

- I. Council is satisfied that the changes to conditions 1 and 3 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 Proposed Waikato District Plan; and
  - (c) That the changes meet the purpose and principles of the Resource Management Act 1991.