



FONTERRA LIMITED

SUBMISSION ON PROPOSED PLAN CHANGE 2 TO THE HAMILTON DISTRICT PLAN

To: Hamilton City Council

SUBMITTER: FONTERRA LIMITED

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Fonterra wishes to be heard in support of this submission.

Fonterra could not gain an advantage in trade competition through this submission.

If others make a similar submission, Fonterra would consider presenting a joint case with them at any hearing.

1. SUMMARY

1.1. Fonterra Limited ("**Fonterra**") supports the creation of vibrant and dynamic communities within Hamilton City. In order to realise this, it is important that the City's urban environment is underpinned by a strong economic base with ample and diverse employment opportunities for both existing and future residents. Therefore, it is important that growth in Hamilton does not:

- compromise the long-term strategic planning framework for Hamilton City and the wider Waikato Region; or
- allow incompatible activities to locate in close proximity to each other, leading to risk of conflict between land uses, including exposing sensitive uses (e.g. residential or visitor accommodation) to the effects generated by heavy industrial uses; or
- compromise Hamilton City Council's ("**Council**") existing and planned investment in road, rail and three-waters infrastructure (and associated capital commitments), which is likely to result in an additional and unforeseen burden to the Council and ratepayers.

1.2. In addition, and as a regionally significant industrial operator, Fonterra seeks to ensure that growth in Hamilton occurs in a manner that does not compromise:

- Fonterra's current operations at the Te Rapa Dairy Manufacturing Facility ("**Te Rapa Site**"), including Fonterra's heavy industrial operation and Contact Energy's co-generation plant, and the significant benefits these operations offer to Hamilton City and the wider Waikato Region; and
- Fonterra's potential future operations at the Te Rapa Site (and those of other industrial land uses located nearby), along with its continued investment in Hamilton.

1.3. Proposed Private Plan Change 2 ("**Plan Change**"), lodged with Council by Perry Group Limited ("**Perry**"), proposes a significant change to the use of the Te Rapa North area, including the establishment of a large number of sensitive residential dwellings on land owned by Perry within the Te Rapa North Industrial Zone ("**Perry Site**"). The Perry Site is in close proximity to Fonterra's Te Rapa Site.

1.4. In its current form, the Plan Change raises a number of concerns for Fonterra in particular:

- the establishment of a significant number of residential dwellings on the Perry Site will have substantial reverse sensitivity effects on Fonterra's operations at the Te Rapa Site, as well as those of other nearby industrial land uses;
- the Plan Change will have a range of other adverse effects, which will not be avoided, remedied or mitigated (including traffic, economic, urban design, landscape and visual effects);
- the Hamilton District Plan ("**District Plan**") has only recently been made operative on 18 October 2017, after a period of seven years involving significant consultation, deliberation and investment (both in terms of time and cost) by the Council, key stakeholders (including Fonterra), and the wider community;
- the proposed rezoning of strategic industrial land for residential purposes will compromise the use of the broader industrial zone for industrial activities and the Council's strategic land use planning for the area, as well as that of Hamilton City and the wider Waikato Region. It will also undermine the Waikato Regional Policy Statement ("**RPS**") and the Future Proof Growth

Strategy and Implementation Plan 2009 ("**Future Proof**"), which underpin the planning framework set out in the District Plan;

- the Plan Change fails to comply with section 75 of the Resource Management Act 1991 ("**RMA**");
- the Plan Change fails to achieve Part 2 of the RMA; and
- overall, the proposal to establish sensitive activities in an industrial zone is contrary to sound resource management planning practice.

1.5. Fonterra requests that the Plan Change be rejected.

1.6. The reasons for Fonterra's opposition to the Plan Change are set out in detail below.

2. BACKGROUND

2.1. Fonterra is a global leader in dairy nutrition, and is the preferred supplier of dairy ingredients to many of the world's leading food companies. Fonterra is New Zealand's largest company and a significant employer, with more than 11,500 New Zealand based staff and more than 9,500 employees based overseas.

2.2. Fonterra is a farmer-owned co-operative, collecting more than 17 billion litres of milk from its 10,500 shareholders annually. In the last 10 years, Fonterra has spent more than \$1 billion on research and development, drawing on generations of dairy expertise to produce more than two million tonnes annually of dairy ingredients, value added dairy ingredients, specialty ingredients and consumer products. These products are exported to more than 100 markets worldwide. Fonterra operates more than 30 milk processing sites in New Zealand.

2.3. Within the Waikato Region, Fonterra has eight dairy factories at Te Rapa, Te Awamutu, Reporoa, Tirau, Waitoa, Hautapu, Lichfield and Morrinsville, a large distribution centre (Crawford Street, Hamilton) and corporate offices (London Street, Hamilton), a Canpac packaging, manufacturing and printing plant (Hamilton) and a storage facility at Waharoa. Tatua has a dairy factory at Tatuani and Open Country has a dairy factory at Waharoa. The Waikato dairy manufacturing industry, together with its supplying farmers, employs approximately 10,530 people and contribute around \$2.2 billion to the Waikato Region's GDP (nearly 11% of the Region's GDP).¹

2.4. In addition to these economic benefits, Fonterra also contributes to Hamilton City, the wider Waikato Region and New Zealand through a range of community-based initiatives, including:

- Providing free milk to more than two thirds of New Zealand's primary schools (1,450 schools currently participate) through its "Milk for Schools" programme. Over 140,000 children are provided with free milk every day. This programme is the largest community programme undertaken by any New Zealand company.
- Working with Sanitarium and the Ministry of Social Development on the "KickStart Breakfasts" programme, providing a free nutritious breakfast of Weet-Bix and milk to over 29,000 New Zealand children every week.

¹ Data from: Employment – Statistics New Zealand; GDP - Dairy Trade's Economic Contribution to New Zealand; NZ Institute of Economic Research for Dairy Companies Association of New Zealand; February, 2017.

- Since 2007, the "Fonterra Grass Roots Fund" has supported more than 1,800 local community projects throughout New Zealand, including providing funding for a range of projects within Hamilton and the Waikato Region.
- Working with the Department of Conservation in a 10-year partnership called "Living Water" to improve biodiversity, including the restoration of the unique ecosystems of the Waikato peat lakes.

History and Significance of Te Rapa Site

- 2.5. Fonterra's Te Rapa Site first opened in 1968. The site was chosen largely because of its location, being away from sensitive land uses. The heavy industrial nature of the activities at the Te Rapa Site and its surrounds has been recognised and provided for since the 1970s. Successive planning regimes have consistently recognised that Te Rapa North should be regarded as an "area of restraint" and that residential development should be directed elsewhere. For example:
- **1972 Hamilton Area Study** – Both the Te Rapa Site and the Affco Meat Processing Plant were identified as areas of existing use restraint as part of the consideration and identification of potential growth areas.
 - **1995 Waikato District Plan** – The Te Rapa Site was zoned as a Dairy Industrial Zone.
 - **2004 Horotiu Industrial Study** – 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, with the final zoning being a combination of Industrial and Deferred Industrial zoning.
 - **2005 Strategic Agreement on Future Urban Boundaries** – Hamilton City Council and Waikato District Council agreed that all land located between the City boundary and the Waikato Expressway to the west of the Waikato River was to be developed for industrial purposes.
 - **Future Proof**– Identified Te Rapa North as a Strategic Industrial Node, an outcome that was subsequently given statutory weight in the RPS, the Waikato District Plan and the Hamilton City District Plan.
 - **Hamilton Urban Growth Strategy ("HUGS")** – Specifically directs future residential growth towards the southern end of Hamilton where it would support / be supported by existing and planned infrastructure and services, and identifies Te Rapa North as a Future Employment Zone.
- 2.6. The longstanding identification of the Te Rapa Site and its surrounds as a Strategic Industrial Node has provided Fonterra with confidence to develop and operate the Site in the way that it has. Fonterra has invested over \$52 million in the Te Rapa Site since 2013. Fonterra's recently announced \$20 million expansion to its cream cheese operations at the Te Rapa Site was confirmed in reliance on the area being (and continuing to be) surrounded primarily by industrial zoned land.
- 2.7. The Te Rapa Site processes over 8 million litres of milk each day during peak season and produces approximately 325,000 tonnes of milk powder and cream products each year. The milk used at the Te Rapa Site is sourced from farms located primarily within the Waikato Region.
- 2.8. The Te Rapa Site is a critical asset for Fonterra, with a replacement value of almost \$1 billion. The site is not only important to Fonterra. It is a regionally significant industrial operation, employing over 700 full time equivalent staff (including Contact Energy's co-generation plant and Milktest's facilities). It pays approximately \$58 million in wages and salaries each year and purchases approximately \$90 million of goods and services from local businesses.

3. SCOPE OF SUBMISSION

- 3.1. This submission relates to the Plan Change in its entirety.

4. NATURE OF SUBMISSION

- 4.1. Fonterra opposes the Plan Change in its entirety, and seeks that it be rejected.
- 4.2. Fonterra supports the proposal to establish an adventure park at the Perry Site, however this could be achieved under the existing zoning of Te Rapa North by way of a resource consent application process. The adventure park would be at worst a non-complying activity under Chapters 9 and 12 of the District Plan. The Plan Change is therefore not required to authorise the adventure park proposal.

5. REASONS FOR SUBMISSION

- 5.1. The reasons for this submission are that the Plan Change, in its current form:
- will not promote the sustainable management of resources, and therefore will not achieve the purpose and principles of the RMA;
 - will not meet the reasonably foreseeable needs of future generations;
 - will not enable social, economic and cultural wellbeing;
 - is contrary to the purposes and provisions of the relevant planning documents including the District Plan and the RPS;
 - is contrary to Part 2 and other provisions of the RMA, including section 75; and
 - does not represent the most appropriate way to achieve the objectives of the District Plan, in terms of section 32 of the RMA.
- 5.2. Further, the section 32 evaluation provided with the Plan Change is deficient. It provides little analysis to support its conclusion that the objectives of the Plan Change are the most appropriate way to achieve the purpose of the RMA. It erroneously assesses alternative strategies through which those objectives could be achieved (i.e. through resource consents, a plan change or a submission on a future review), rather than assessing if other provisions are more appropriate.
- 5.3. Without limiting the generality of the above, additional specific reasons for declining the Plan Change in its current form are set out below.

Inconsistency with planning framework

- 5.4. The Plan Change is demonstrably inconsistent with the planning framework for Hamilton City and the wider Waikato Region. As set out above, Te Rapa North has consistently been recognised as suitable for heavy industrial activities for almost 50 years. All of the Council's key strategic planning documents identify Te Rapa North as an exclusively industrial area, including the RPS and Future Proof (Strategic Industrial Node) and the District Plan (zoned Industrial).
- 5.5. For the reasons set out below, Fonterra considers that the proposed establishment of an isolated residential area in the Te Rapa North Strategic Industrial Node will undermine the integrity of the Council's strategic land use planning, as well as that for the wider Waikato Region:

- The RPS provides for a defined settlement pattern for built development, including residential and industrial development intended to provide for projected population growth. The RPS also recognises the benefits of regionally significant industry and infrastructure and seeks to protect the strategic importance of industrial activities by minimising land use conflicts.² Although the RPS provides the ability to consider *alternative land release* or *timing of release*,³ the Plan Change is not simply a re-allocation of the timing and staging of land release within the Te Rapa North Strategic Industrial Node. Rather, the Plan Change proposes to fundamentally alter the agreed land use pattern provided for under the RPS as well as the strategic planning documents identified below.
- The District Plan captures the strategic direction of the RPS by providing that industrial development is to be consistent with the long-term land use pattern for the Te Rapa North Industrial zone.⁴ Chapter 12 sets out the specific planning direction for this zone, including that industrial activities are to be enabled to establish and operate in an efficient and effective manner, and not be adversely affected by incompatible subdivision, use or development.⁵ The Te Rapa Site is also identified as a nationally and regionally important strategic industrial facility.⁶
- Future Proof identifies areas like Te Rapa North as Strategic Industrial Nodes because they are suitable for industrial activities and development, rather than residential. Further, the Plan Change application mischaracterises the Perry Site as a greenfield area under Future Proof, which is not the case.
- HUGS identifies Te Rapa North as a Future Employment Area, while areas in other different parts of the city have been earmarked for residential development. The existing industrial zoning at Te Rapa North should therefore be maintained, as this provides for the growth and expansion of the Te Rapa Site as a significant regional employer.

5.6. The Plan Change argues that it is "highly consistent" with the National Policy Statement on Urban Development Capacity ("**NPS UDC**"). However, that conclusion is premised on a flawed interpretation of the NPS UDC. The Plan Change focuses only on residential enablement, whereas the NPS UDC seeks to ensure there is development capacity for both residential and business land.⁷ Given the shortcomings of the assessment of residential and industrial demand in the Plan Change, it cannot be said that the Plan Change is "highly consistent" with the NPS UDC.

Reverse sensitivity

- 5.7. Establishing sensitive activities such as residential dwellings and visitor accommodation on the Perry Site will result in significant adverse reverse sensitivity effects on nearby industrial land uses, including the Te Rapa Site.
- 5.8. Sensitive residential activities are fundamentally incompatible with the large-scale heavy industrial operations that occur at Fonterra's Te Rapa Site. As Fonterra has experienced in relation to the Te Rapa Site and a number of its other sites throughout New Zealand, the location of sensitive residential activities nearby gives rise to very real and significant reverse sensitivity effects, including:
- higher compliance costs required to mitigate effects on new sensitive neighbours;

² RPS, Objectives 3.12(g) and 6.16(f).

³ RPS, Rules 6.14.2 and 6.14.3.

⁴ District Plan, Objective 12.2.3.

⁵ District Plan, Objective 12.2.1 and Policies 12.2.1a to 12.2.1c.

⁶ District Plan, Objective 12.2.5.

⁷ NPS UDC, Objective OA2.

- internal costs associated with staff being diverted from duties to investigate and respond to complaints;
- materially increased consenting costs; and
- increased risk of consents being declined or subject to more stringent conditions that place constraints and/or additional costs on Fonterra's operations.

5.9. Such effects are contrary to the clear policy direction in the RPS and District Plan set out above. The Plan Change does not include appropriate measures required to avoid these effects.

Other effects

Transport

- 5.10. The Plan Change is inconsistent with Hamilton's strategic transport documentation. In particular, the location of a significant number of residential dwellings (in addition to other activities) away from the city centre runs counter to the compact form for the city directed by Access Hamilton, HUGS, and the Hamilton Integrated Transport Plan.
- 5.11. The development proposed by the Plan Change will necessitate the four laning of Te Rapa Road, as its existing capacity would be exceeded. The four laning of Te Rapa road is neither planned nor programmed by the Council. For the area between Hutchinson Road and McKee Street, the widening would require significant amounts of private land, and would also require the reconstruction of the grade-separated interchange providing access to the Te Rapa Site, including an additional bridge structure and redesign of the access ramps. The cost to undertake these works has been estimated at approximately \$40-50 million.
- 5.12. The location of the Waikato Expressway, a major piece of infrastructure and a significant public investment, in close proximity to existing industrial land uses was deliberately designed to provide for the transport requirements of those activities.⁸ Introducing a significant number of residential dwellings to this area may result in the under-utilisation of this key piece of Hamilton's transportation infrastructure for the strategic purpose it was intended for. Similarly, Te Rapa North is located near the North Island Main Trunk Railway Line, another strategic transport asset. Potential constraints on the land surrounding the North Island Main Trunk Line should be avoided, as that may lead to underutilisation of the land served by the strategic rail asset.
- 5.13. Residential development in an isolated location to the north of the city does not align with Hamilton's strategy for a compact city form. This will lead to increased dependency on cars for transport, which in turn will increase traffic volumes and make it more difficult for Hamilton to achieve its passenger transport objectives.

Economic

- 5.14. A critical pillar of Perry's justification for the Plan Change is that it is uneconomical for it to develop its site for industrial uses, particularly due to geotechnical instability from uncontrolled fill. However, Perry is the architect of that problem, having profited off its sand mine operation for many years. It is unreasonable for Perry to now seek residential enablement due to geotechnical issues caused by its own activities.

⁸ The New Zealand Transport Agency's (formerly Transit New Zealand) Notice of Requirement for the Te Rapa Bypass states that one of the key objectives of the project was to "optimise the industrial zoning potential in the Rotokauri / Te Rapa / Horotiu area".

- 5.15. The establishment of residential development on the Perry Site will defer development of land that is already zoned (and more appropriately suited) for residential development. This could lead to the under-utilisation of existing infrastructure with capacity to service already planned new residential development and increased overall development costs for the district and reduced housing affordability. While some of these costs may be borne by Perry through development contributions, some of the higher level infrastructure capital costs, as well as operation and maintenance costs, will need to be funded by the Council (i.e. ratepayers).
- 5.16. Fonterra's Te Rapa Site contributes substantially to the regional economy, providing significant employment opportunities, incomes and expenditure, both directly (at the Site itself) and indirectly via the multiplier effect. The location of sensitive residential dwellings on the Perry Site will give rise to reverse sensitivity issues for Fonterra and other nearby industrial land users. Reverse sensitivity effects can result in constraints that affect economic viability or investment decision-making for existing activities – examples include the constraints on the former Bay Park Raceway and Eden Park.

Wastewater / stormwater

- 5.17. The Plan Change proposes to locate approximately 1,000 new residential dwellings on the Perry Site, as well as a number of other non-industrial uses (including "live and work" style accommodation and temporary visitor accommodation). A separate Special Housing Area ("**SHA**") application for the Perry Site, which relies on the technical reports associated with the Plan Change, seeks to provide a *minimum* of 1,000 dwellings.⁹
- 5.18. Fonterra understands that the capacity of Hamilton's wastewater network is insufficient to accommodate the number of dwellings proposed, and will require upgrading. This uncertainty is compounded by the fact that there is no consistency between the Plan Change and SHA applications as to the number of residential dwellings being proposed or whether the proposal is for a tourism activity with ancillary housing, or housing with ancillary recreation activities.
- 5.19. The development of new infrastructure to accommodate development on the Perry Site may lead to the under-utilisation of existing infrastructure built with capacity to service already planned new residential growth to the south. As such, the proposed development is contrary to a number of the District Plan's key objectives in relation to infrastructure, including:
- Objective 2.2.2, which aims to ensure that development uses land and infrastructure that is intended for that purpose, and that any development provides for the efficient use of infrastructure.
 - Objective 2.2.13, which provides that development should be integrated with infrastructure provision so that it does not compromise the efficient and effective use of existing or planned infrastructure.

Urban design, landscape and visual

- 5.20. The Plan Change proposes to enable the creation of an isolated island suburb, separated from other residential development. This is a poor urban design outcome, particularly given that the key strategic planning documents direct Hamilton to develop into a compact city. The Perry Site is a remote area, distant from social amenities to serve residents, including the hospital, the university, schools, shopping areas and the city centre.

⁹ See "Te Awa Lakes: Application to Schedule Special Housing Area – Area B" report prepared by Aurecon for Perry Group Limited (29 September 2017) at page 1.

- 5.21. The Plan Change will not deliver a signature gateway to Hamilton City from the north. Instead of providing an entrance experience for visitors, Hamilton will welcome visitors with a view of a residential suburb. From an urban design, landscape and visual perspective retaining open space or providing a large-scale industrial buildings would provide a better gateway. Such an approach would also be consistent with the character of other uses nearby, including those further south along the Waikato Expressway.

Consultation

- 5.22. Fonterra does not consider that it has been appropriately consulted. Perry first approached Fonterra in late 2016, and presented an adventure park concept for the Perry Site. At that time, Perry undertook to work proactively and transparently with Fonterra, including to provide Fonterra with draft technical reports as they were prepared.
- 5.23. However, Perry did not provide Fonterra with copies of its technical reports or application until mid-July 2017. Fonterra provided feedback on 25 July 2017, however, Perry provided no indication of how Fonterra's concerns might be addressed. Instead, the Plan Change documentation was lodged three days later, without any apparent amendment in response to Fonterra's concerns.
- 5.24. Overall, Perry has failed to undertake meaningful consultation with Fonterra on the Plan Change, despite the fact that the proposal will have significant effects on Fonterra's operations at the Te Rapa Site.

6. DECISION SOUGHT

- 6.1. Fonterra seeks that the Plan Change is rejected.

Signature:

FONTERRA LIMITED by its solicitors and authorised agents Russell McVeagh:



Daniel Minhinnick / Mike Doesburg

Date:

29 November 2017

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