

**IN THE MATTER**

of the Resource Management Act 1991

**AND**

**IN THE MATTER**

of the hearing of submissions by the Whangarei District Council on Plan Changes 85, 85A, 85B, 85D, 86A and Consequential Amendments to the Whangarei District Plan

**EVIDENCE** 07  
**TOPIC** PC85A-D, 86A-B, 87, 102, 114  
**SUB#** Rural Plan changes  
**DATE** 04-07-2017

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**LEGAL SUBMISSIONS FOR FONTERRA LIMITED**

**4 JULY 2017**

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## 1. INTRODUCTION

1.1 Fonterra Limited's ("**Fonterra**") interest in this hearing relates to its Kauri Milk Processing Site ("**Kauri Site**") located on State Highway 1 at Kauri, 10km north of Whangarei, north of Saleyards Road and south of Richards Road. In addition, Fonterra owns and operates three irrigation farms in the vicinity of the site known as the Kauri, Hikurangi and Jordan Valley irrigation farms. A plan showing the location of the Kauri Site and irrigation farms was included in Fonterra's submission and is **attached** as Appendix 1.

1.2 The Kauri Site is critical to Fonterra's milk processing capacity in the Northland region. It processes up to 3 million litres of milk per day, 47 weeks per year. The Kauri Site produces a number of different dry milk and milkfat products and in the 2015 /2016 season produced 118,000 tonnes of product. In terms of employment, approximately 380 people are employed at the Kauri Site, in addition to the direct and indirect employment generated for contractors and other businesses in the Whangarei District.

1.3 Fonterra has participated in the Plan Changes to ensure that they recognise the importance of the Kauri Site for the Whangarei District and protect it against potential reverse sensitivity effects in the long term. The encroachment of sensitive activities around Fonterra's sites is a significant issue nation-wide, which Fonterra wishes to avoid in the Whangarei District.

1.4 Fonterra generally supports the Plan Changes and the approach taken by the Council. In particular, Fonterra supports Plan Change 85B, which establishes the Strategic Rural Industries Environment ("**SRIE**") that applies to Fonterra's Kauri Site. Fonterra also supports the methods proposed to protect the Kauri Site against reverse sensitivity effects, including the establishment of a noise control boundary and the consenting requirement for sensitive activities within that boundary or within proximity to Fonterra's irrigation farms.

### **Witnesses**

1.5 Fonterra will call evidence from:

- (a) Mr Adrian Pyne, Fonterra's Environmental Risk and Compliance Manager for the Upper North Island – Mr Pyne's evidence provides an overview of Fonterra, the Kauri Site and Fonterra's key issues; and

- (b) Mr Dean Chrystal of Planz Limited, an expert planning consultant – Mr Chrystal's evidence addresses each of Fonterra's submission points in detail.

### **Issues in dispute**

1.6 The Council officers' section 42A reports recommend that many of Fonterra's submissions and further submissions be accepted, which Fonterra endorses. However, there are some outstanding issues, where Fonterra's submissions have been accepted only in part or have been rejected. Fonterra's evidence and these legal submissions have focused on those issues. The key outstanding issues relate to:

- (a) the objectives, policies and rules and whether further amendments are required to address potential reverse sensitivity effects on the Kauri Site;
- (b) the potential unintended consequences of the Council officer's proposed amendment to the definition of Activities Ancillary to Farming and Forestry (to include Strategic Rural Industries);
- (c) the height rule for the Kauri Site in the SRIE and whether additional infrastructure should be excluded; and
- (d) the new rules proposed by the New Zealand Transport Agency ("NZTA") for the SRIE.<sup>1</sup>

1.7 These will be addressed in turn. Fonterra also proposes further minor or technical amendments to the Plan Changes, however these are addressed in the evidence of Mr Chrystal and are not repeated here.

## **2. REVERSE SENSITIVITY**

2.1 Reverse sensitivity is a well-established planning principle. It refers to the vulnerability of established effects-generating activities from objections as a result of new sensitive activities locating nearby. Such objections can stifle the growth of the established activities, or in extreme cases, drive them elsewhere. Reverse sensitivity generally results from complaints by just a few residents – allowing even a small degree of sensitive development near an existing activity can cause issues.

<sup>1</sup> Note, the Council supports Fonterra's submission, however, NZTA continues to seek the imposition of these additional rules.

- 2.2 Case law confirms that reverse sensitivity is an adverse effect in the context of the RMA.<sup>2</sup> The Council therefore has a positive duty under Part 2 and section 31 of the RMA to avoid, remedy or mitigate such effects. In the context of industrial activities (such as the Kauri Site), this necessarily requires that the Council provide for reasonable operation, growth and expansion, while protecting the activities from encroachment by sensitive development. How this is achieved will depend on the circumstances of each case and what is most appropriate in terms of section 32 of the RMA. In some instances, providing a suitable surrounding zoning will be sufficient, but in others controls on the use of surrounding land may be required.
- 2.3 The Environment Court has provided guidance on when controls on surrounding land will be appropriate. The general principles are:<sup>3</sup>
- (a) Adverse effects should be internalised as far as reasonably achievable. Having done all that is reasonably achievable, the RMA does not require that total internalisation of effects is achieved.
  - (b) There is a greater expectation of internalisation for newly established activities than older activities.
  - (c) The main concern is to ensure that adverse effects beyond the boundary are not unreasonable (ie offensive, objectionable or significant).
  - (d) In assessing what is reasonable, the context of the environment beyond the boundary is relevant.
- 2.4 In Fonterra's submission, the Kauri Site meets these general principles. The Kauri Site is a long-established lawful activity, which internalises effects as far as reasonably achievable. In the context of a district facing growth pressures, including demand for development in rural areas, a restriction on sensitive development near the Kauri Site is reasonable and appropriate.

<sup>2</sup> *Winstone Aggregates v Papakura District Council* (A049/2002), at [12] and *Independent News Auckland Ltd v Manakau City Council* (2003) 10 ELRNZ 16 (EnvC), at [57].

<sup>3</sup> *Waikato Environmental Protection Soc Inc v Waikato Regional Council* [2008] NZRMA 431 (EnvC), following *Winstone Aggregates v Matamata-Piako District Council* (2005) 11 ELRNZ 48 (EnvC) and *Wilson v Selwyn District Council* (C023/04).

### **Noise control boundary and consenting requirements for sensitive activities**

- 2.5 Fonterra supports the pragmatic approach taken by the Council in working closely with Fonterra to address its concerns in relation to reverse sensitivity effects. In particular, Fonterra supports the noise control boundary proposed by the Council and implemented through the Consequential Amendments to the Noise and Vibration section of the District Plan and associated Planning Maps.
- 2.6 As expressed in the evidence of Mr Chrystal, the proposed noise control boundary provides certainty for both Fonterra and landowners as to the extent of noise permitted from the Kauri Site.<sup>4</sup> In Fonterra's submission, the fact that no submissions were lodged in opposition to the proposed noise control boundary indicates that it is an appropriate response to the issue.
- 2.7 In addition to the noise control boundary, the Council has accepted Fonterra's submission seeking a consenting requirement for sensitive activities in the Rural Production Environment ("RPE") and Rural Living Environment ("RLE") near the SRIE or Fonterra's irrigation farms.
- 2.8 Fonterra operates three irrigation farms on land surrounding the Kauri Site. These farms are a critical part of Fonterra's operations, allowing wastewater (that is first treated on the Kauri Site) to be discharged in an environmentally appropriate manner. Without the ability to dispose of wastewater, the Kauri Site's operations would be significantly constrained.
- 2.9 Under the proposed rules, sensitive activities within 500m of the SRIE or within 250m of an existing activity ancillary to a Strategic Rural Industry (including irrigation farms) require consent as a discretionary activity. Fonterra endorses the Council's approach in this regard.
- 2.10 The above methods (and associated objectives and policies) provide some level of protection against reverse sensitivity effects. However, Fonterra considers that further improvements can and should be made to the reverse sensitivity provisions.

### **Plan Change 85 - Objective RA 1.2.2**

- 2.11 The Rural Area section of the Plan Changes provides overarching guidance in respect of all five of the rural environments established by the Plan Changes.

<sup>4</sup> Statement of Evidence of Dean Michael Chrystal (Planning) at 3.4-3.10.

The objectives and policies in the Rural Area section are identified as relevant considerations for any resource consent applications in the rural environments. Given their strategic importance, it is critical that the objectives and policies of this section are appropriately framed.

- 2.12 Objective RA 1.2.2 is of greatest interest to Fonterra as it seeks that reverse sensitivity effects are avoided, remedied and mitigated. Fonterra sought an amendment to the Objective to ensure that it included reference to rural industries, in addition to productive rural activities:

Avoid, remedy or mitigate reverse sensitivity impacts especially in relation to established and productive rural activities and rural industries.

- 2.13 The section 42A report has recommended that RA 1.2.2 be amended to read:

Avoid, remedy or mitigate reverse sensitivity impacts, particularly especially in relation to established and productive rural production activities.

- 2.14 The amendment does not address Fonterra's concern, it simply clarifies that "rural production activities" are provided for instead of "productive rural activities". The definition of rural production activities does not include rural industries.

- 2.15 In Fonterra's submission, specifically listing only rural production activities does not reflect the outcomes actually sought by the Plan Changes. The objectives, policies and rules in the various rural environments seek to protect both rural production activities and strategic rural industries from reverse sensitivity effects. For example, as noted above, the rules of the SRIE, RPE and RLE all seek to avoid reverse sensitivity effects on strategic rural industries. Recognising only rural production activities in RA 1.2.2 may result in undue primacy being given to protecting rural production activities, at the expense of strategic rural industries.

- 2.16 Fonterra therefore seeks that Objective RA 1.2.2 be amended to include the language from its submission as follows (shaded grey):

Avoid, remedy or mitigate reverse sensitivity impacts, particularly especially in relation to established and productive rural production activities and rural industries.

#### **Plan Change 85A – sensitive activities and noise sensitive activities**

- 2.17 The operative District Plan currently provides different definitions for "Sensitive Activity" and "Noise Sensitive Activity". Fonterra submitted that both should

be included in Rule RPE 2.3.1, which imposes consenting requirements on "Sensitive Activities", including within 500m of the SRIE.

- 2.18 The section 42A report does not specifically address Fonterra's submission, and Fonterra's amendment has not been included in the amended Plan Change text. However, the report recommends that the definition of "Sensitive Activity" be amended as follows:

Sensitive activities means, ~~within a National Grid Corridor,~~ childcare and education facilities, Residential Activity, hospitals, Health Care Facilities and Retirement Villages.

- 2.19 "Noise Sensitive Activity" is separately defined as:

...those activities that involve habitation of people within which concentration (of thoughts) is required and includes residential units, residential institutions, marae, hospitals, health care facilities and education facilities, excluding Airport staff and aviation training facilities or aero clubs (other than airport staff training facilities).

- 2.20 Mr Chrystal explains that, in his opinion, the removal of the words "within a National Grid Corridor" clarifies the situation to an extent.<sup>5</sup> However, the two definitions remain distinct due to the fact that "marae" is covered by the Noise Sensitive Activity definition, but is not included as a Sensitive Activity.

- 2.21 Having considered the section 42A report, Fonterra submits that amending the definition of "Sensitive Activity" is the correct approach; however, a more comprehensive definition should be adopted. Fonterra supports the amendment proposed by the Egg Producers Federation of New Zealand, which would provide as follows:

Sensitive activities means, ~~within a National Grid Corridor,~~ childcare and education facilities, Residential Activity, hospitals, Health Care Facilities and Retirement Villages, Visitor Accommodation, Community Activities, Recreational Facilities and Activities, Camping Grounds, Places of Assembly, Marae and Papakainga Housing.

- 2.22 While Fonterra accepts the section 42A report's comment that the various additional activities are already controlled in the RPE (under the eligibility rules or the list of discretionary activities), the proposed amendment to the definition is necessary to provide clarity when applying the Plan's provisions to resource

<sup>5</sup> Statement of Evidence of Dean Michael Chrystal (Planning) at 4.11.

consent applications. Various objectives and policies refer specifically to "Sensitive Activities", including RPE Policy 1.3.2:<sup>6</sup>

To manage reverse sensitivity effects by avoiding the establishment of sensitive activities within close proximity to ~~Mineral Extraction Quarrying Resource~~ Areas, Strategic Rural Industries, ~~intensive farming activities~~ intensive livestock farming or other rural production activities that are legally lawfully established ~~where adverse effects are not contained within site boundaries.~~

- 2.23 Under the section 42A report's proposed definition, this Policy (and others like it) would not apply to the additional activities listed above at paragraph 2.21. This may result in inappropriate outcomes where plainly inconsistent activities, such as visitor accommodation, could be granted consent and cause reverse sensitivity effects.
- 2.24 Fonterra therefore seeks that the Egg Producers Federation of New Zealand's submission referred to above is accepted.

#### **Plan Change 86A – opposition to RUEE**

- 2.25 Fonterra submitted in opposition to the proposed rezoning of land on the south side of Main Road (which is located near Fonterra's irrigation farm to the east of the Kauri Site). The notified Plan Changes proposed to rezone that land to Rural (Urban Expansion) Environment ("RUEE"), whereas Fonterra sought that the operative countryside zoning be carried over, by rezoning the land to RPE.
- 2.26 The section 42A report recommends that Fonterra's submission is rejected. While acknowledging that the Kauri Site is nearby, the report considers that the proposed zoning will not exacerbate any reverse sensitivity issues, because:
- (a) the proposed RUEE boundary is over 250m from the wastewater irrigation farm and over a kilometre from the Kauri Site; and
  - (b) there are already several residential units located between the proposed RUEE and Fonterra's Kauri Site and irrigation farm.
- 2.27 As Mr Pyne's evidence explains, Fonterra considers that the most appropriate zoning for land surrounding its manufacturing sites and associated wastewater

<sup>6</sup> For example, RPE Policy 1.3.2 refers specifically to "Sensitive Activities" when seeking to manage reverse sensitivity effects.



disposal farms is rural production, or compatible commercial or industrial activity.<sup>7</sup> Mr Pyne's evidence also notes that in his experience, significant actual effects are often not required to generate complaints – the perception of adverse effects can result in complaints.<sup>8</sup>

- 2.28 In 2011, Fonterra opposed a proposal to rezone other nearby land to a similar zone, which Plan Change 93 called "Urban Transition Environment". In that case, the Commissioners found that a buffer of 500 metres from the Kauri Site and irrigation farms was appropriate.<sup>9</sup>
- 2.29 Fonterra's preference would be for the land south of Main Road to be zoned RPE. However, as explained by Mr Chrystal's and Mr Pyne's evidence,<sup>10</sup> Fonterra accepts that the provisions of the Plan Changes will ensure that potential reverse sensitivity effects are avoided. Provided that the noise control boundary, consenting requirements for sensitive activities near the Kauri Site and irrigation farms and related provisions are retained, Fonterra's concern with the proposed RUEE zoning would be addressed.

#### **Plan Change 85D RLE rezoning requested by Mr Aylward**

- 2.30 Fonterra opposed a submission by Mr Malcolm Aylward to have his land rezoned from RPE to RLE, due to its proximity to Fonterra's irrigation farms.
- 2.31 As Mr Aylward's evidence notes, Fonterra has since discussed the matter with Mr Aylward. On the basis of the steep topography of the part of the site nearest to Fonterra's irrigation farms (and the relevant provisions of the Plan Changes to address reverse sensitivity effects), Fonterra no longer opposes Mr Aylward's rezoning request.

### **3. ACTIVITIES ANCILLARY TO FARMING, FORESTRY OR STRATEGIC RURAL INDUSTRY**

- 3.1 As noted earlier, Fonterra's irrigation farms are critical to the operation of the Kauri Site. The irrigation farms are all located in the RPE. Fonterra was concerned that changes to the irrigation farms would require resource consent under the RPE provisions. Industrial activities are non-complying in the RPE.

<sup>7</sup> Statement of Evidence of Adrian Pyne (Corporate) at 5.11.

<sup>8</sup> Statement of Evidence of Adrian Pyne (Corporate) at 4.2.

<sup>9</sup> Hearing Commissioners *PC93 Recommendations to Council 21 July 2011* at paragraph 86.

<sup>10</sup> Statement of Evidence of Adrian Pyne (Corporate) at 5.1 and 5.11; Statement of Evidence of Dean Michael Chrystal (Planning) at 4.35.

While irrigation is plainly a rural activity, Fonterra was concerned that the link between the farms and the Kauri Site could result in the farms being considered an industrial activity (because the definition of "Industrial Activity" includes "other ancillary activities"). Fonterra therefore sought an amendment to Rule RPE 2.1.1:

Commercial and industrial activities are non-complying activities. Ancillary activities to industrial activities, such as water storage and/or treatment ponds and irrigation infrastructure, are exempt from this rule.

- 3.2 The section 42A report recommended that Fonterra's submission be accepted in part. It proposed to amend the definition of Activities Ancillary to Farming or Forestry to incorporate Strategic Rural Industries as follows:

**Activities Ancillary to Farming, Or Forestry or Strategic Rural Industry**

*Means processing and packaging facilities for farming, forestry and any strategic rural industry that is dependent primarily on the direct handling of raw produce, or that primarily supplies services to farming, horticulture, or forestry. Includes premises used for the manufacture of dairy products, abattoirs, timber processing, stock yards and sale yards, cool stores, and pack houses, and rural contractor depots and by-product disposal.*

- 3.3 This is an elegant solution, which Fonterra supports. However, the proposed amendment appears to have an unintended consequence by virtue of Rule RPE 2.1.5. That eligibility rule requires that activities ancillary to farming, forestry or strategic rural industry are limited to buildings or outdoor areas no larger than 500m<sup>2</sup>. Resource consent is required as non-complying activity to exceed that size limit.
- 3.4 Fonterra's irrigation operation would exceed the limit. Its irrigation farms include water storage and wastewater treatment ponds, which fall within the definition "building" as they exceed 35,000 litres and are larger than 500m<sup>2</sup>.<sup>11</sup> The irrigators operate over hundreds of hectares of outdoor area, well in excess of 500m<sup>2</sup>.

<sup>11</sup> The definition of "Building" relevantly reads:

***Building***

*means any temporary or permanent, movable or immovable structure, including any place, vehicle or construction used as a place of residence or business or for assembly or storage purposes; but does not include: [...]*

*e) Any tank or pool not exceeding 35,000 litres;*

3.5 The section 42A report is clear that the Council's intention was to avoid confusion and "efficiently and effectively provide for [Fonterra's] irrigation activity".<sup>12</sup> In order to achieve the Council's stated objective, Fonterra submits that Rule RPE 2.1.5 should make it clear that water storage and/or treatment ponds and irrigators are not subject to the 500m<sup>2</sup> limit in the RPE.

3.6 A simple way to achieve this is to include a note after RPE Rule 2.1.5:<sup>13</sup>

For the avoidance of doubt water storage and/or treatment ponds and irrigators are not subject to this rule.

#### 4. FACILITIES EXEMPT FROM THE SRIE HEIGHT LIMIT

4.1 The SRIE has a height limit of 20 metres, except for buildings for a spray drying or evaporation plants, which are permitted up to 65 metres.

4.2 Fonterra submitted on the SRIE height limit, seeking clarification that any boilers, silos and driers associated with the Kauri Site can exceed the 20 metre height limit. Given the close relationship between drying plants and boilers and silos, this may already be intended by the rule. However, Fonterra proposed the following wording for clarity and certainty:

1. Any building:

- a. That exceeds a height of 20m, or is a boiler, silo, drier spray drying or evaporation plant that exceeds a maximum height of 65m, including any associated stacks or telecommunication facilities.

4.3 The section 42A report recommends that Fonterra's submission be rejected the basis that not enough information has been provided to justify the additional items in the exception.

#### **"Spray drying" to "driers"**

4.4 As explained by Mr Pyne,<sup>14</sup> the proposed change from "spray drying" to "driers" is intended to provide a more generic term that will encompass any potential technological changes in the future. In his evidence, Mr Chrystal states that, in his opinion, the change sought by Fonterra will have no difference from an effects point of view.<sup>15</sup>

<sup>12</sup> Whangarei District Council *Section 42A Hearing Report Part 7 – Proposed Plan Change 85A – Rural Production Environment* at [142].

<sup>13</sup> Statement of Evidence of Dean Michael Chrystal (Planning) at 4.16.

<sup>14</sup> Statement of Evidence of Adrian Pyne (Corporate) at 5.18.

<sup>15</sup> Statement of Evidence of Dean Michael Chrystal (Planning) at 4.24.

- 4.5 Although the Kauri Site currently uses a spray drying process, it may utilise different technology in the future and, in Fonterra's submission, SRIE Rule 2.3.1(a) should be amended to ensure future technologies can be adopted.

#### **Boilers and silos**

- 4.6 With respect to boilers and silos, as Mr Pyne explains in his evidence, these structures are essential to Fonterra's operations at the Kauri Site.<sup>16</sup> Boilers create heat for the driers – without boilers, drier facilities cannot operate. Silos are similarly critical to the effective functioning of driers. They store milk that is supplied to the driers, and store finished product and wastewater that driers expel.
- 4.7 Given the existing built nature of the Kauri Site and the acceptance that buildings for spray driers or evaporation plants up to 65 metres are acceptable, Fonterra submits that potential effects of new boilers or silos between 20 and 65 metres would be minor. As Mr Chrystal's evidence notes,<sup>17</sup> a key purpose of the SRIE is to enable Strategic Rural Industries. Imposing a consenting requirement for facilities at the core of Fonterra's operation is inconsistent with that approach.
- 4.8 Fonterra therefore requests that SRIE Rule 2.3.1(a) is amended to clarify that the infrastructure related to the drying plant is excluded from the 20 metre limit.

#### **Stacks**

- 4.9 Stacks are closely related to driers and boilers, as they ensure that air discharges from these structures are dispersed appropriately. In his evidence, Mr Chrystal explains that, in his opinion, the visual effects of stacks at the Kauri Site are relatively minor:<sup>18</sup>

Boiler stacks tend to be long slim features with a width of 2-3m which require a reasonable height to be reached in order to ensure the appropriate level of dispersal of particulate matter. Drier stacks are much shorter usually no more than 3m in height with an area of around 10m<sup>2</sup> and there are generally 2-4 located on a drier. In my opinion, the visual impact of stacks when seen in the context of the other buildings is relatively minor.

- 4.10 Fonterra therefore submits, for the reasons set out above in relation to boilers and silos, that stacks should similarly be excluded from the SRIE height limit.

<sup>16</sup> Statement of Evidence of Adrian Pyne (Corporate) at 5.19.

<sup>17</sup> Statement of Evidence of Dean Michael Chrystal (Planning) at 4.27.

<sup>18</sup> Statement of Evidence of Dean Michael Chrystal (Planning) at 4.28.

On advice from Mr Chrystal, Fonterra no longer seeks an exclusion for telecommunications facilities.

4.11 The revised wording now sought by Fonterra is as follows:

That exceeds a height of 20m, or is a boiler, silo, drier spray drying or evaporation plant that exceeds a maximum height of 65m, including any associated stacks.

4.12 If the Panel is unwilling to accept the proposed exclusions, an alternative rule could be drafted, requiring restricted discretionary consent for boilers, silos and stacks between 20 metres and 65 metres in height, with assessment limited only to relevant effects.

## 5. PROPOSED TRAFFIC MOVEMENT RULE

5.1 Fonterra opposed a submission by NZTA seeking to impose a traffic movement rule controlling the maximum number of vehicles per day as a discretionary activity within the SRIE.

5.2 The section 42A report has recommended that NZTA's submission be rejected. The reporting planner agrees with the conclusions in the section 32 report, which determined that the notified Plan Changes were the most efficient and effective option in relation to traffic movement in the SRIE.

5.3 The Transport Agency has since proposed two new rules for the SRIE, requiring resource consent as a restricted discretionary activity for:

1. Any activity not directly associated with or ancillary to the zoned primary activity and generating more than 200 traffic movements per site, per day.

2. Activities directly associated with or ancillary to the zoned primary activity and generating more than 200 traffic movements per site, per day.

5.4 The rules share the same single proposed matter of discretion:

The extent to which additional traffic movements are appropriately serviced by the existing transportation network, including access and methods to manage significant traffic effects.

5.5 Although it is unclear why a distinction is made with the two rules, Fonterra has no objection to the first proposed rule, but firmly opposes the second.

- 5.6 The section 32 report for the Plan Changes carefully considered whether a rule should be included requiring consent for SRIE sites with activities generating more than 200 vehicle movements per day.<sup>19</sup> The report concluded that a vehicle movement rule was not appropriate. It found that there were a number of benefits and few costs associated with the notified provisions and that they were the most efficient and effective solution.
- 5.7 In contrast, NZTA has not demonstrated that its new rules are the most appropriate way to achieve the objectives of the SRIE. NZTA's evidence has not assessed the benefits or costs of the proposed rules, nor has it assessed their efficiency or effectiveness. Importantly, no evidence has been provided to justify a trigger of 200 vehicle movements. A key benefit identified by the section 32 report when assessing the Plan Changes was the removal of a limitation on the scale of activities based upon an arbitrary figure.
- 5.8 The SRIE is designed to enable Strategic Rural Industries. The relevant objectives provide:
1. Recognise the contribution of established Strategic Rural Industries to the vitality and economic viability of the District.
  2. Provide for the establishment and operation of Strategic Rural Industries in appropriate locations within the Rural Area.
  3. Promote the adoption of a flexible and targeted management framework for existing and/or prospective Strategic Rural Industries.
- 5.9 In Fonterra's submission, and as identified in the section 32 report, section 42A report and Mr Chrystal's evidence, imposing a new consenting requirement for activities in the SRIE will not achieve the SRIE's objectives. A consenting requirement with an arbitrary level of 200 vehicle movements per day will impose unnecessary consenting costs on Fonterra. As the Kauri Site already generates more than 200 vehicle movements per day, any change to Fonterra's activities will arguably trigger NZTA's proposed rule. The cost of preparing a consent application for any change on site is unjustified. The access to the Kauri Site was extensively upgraded in 2012 to cater for a significant level of traffic. Nothing would be gained by requiring Fonterra to seek consent each and every time it changed its activities on site.

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<sup>19</sup> Section 32 report, part 4, pages 15 – 17.

5.10 Fonterra therefore asks the Commissioners to reject the second of the two rules proposed by NZTA for the SRIE.

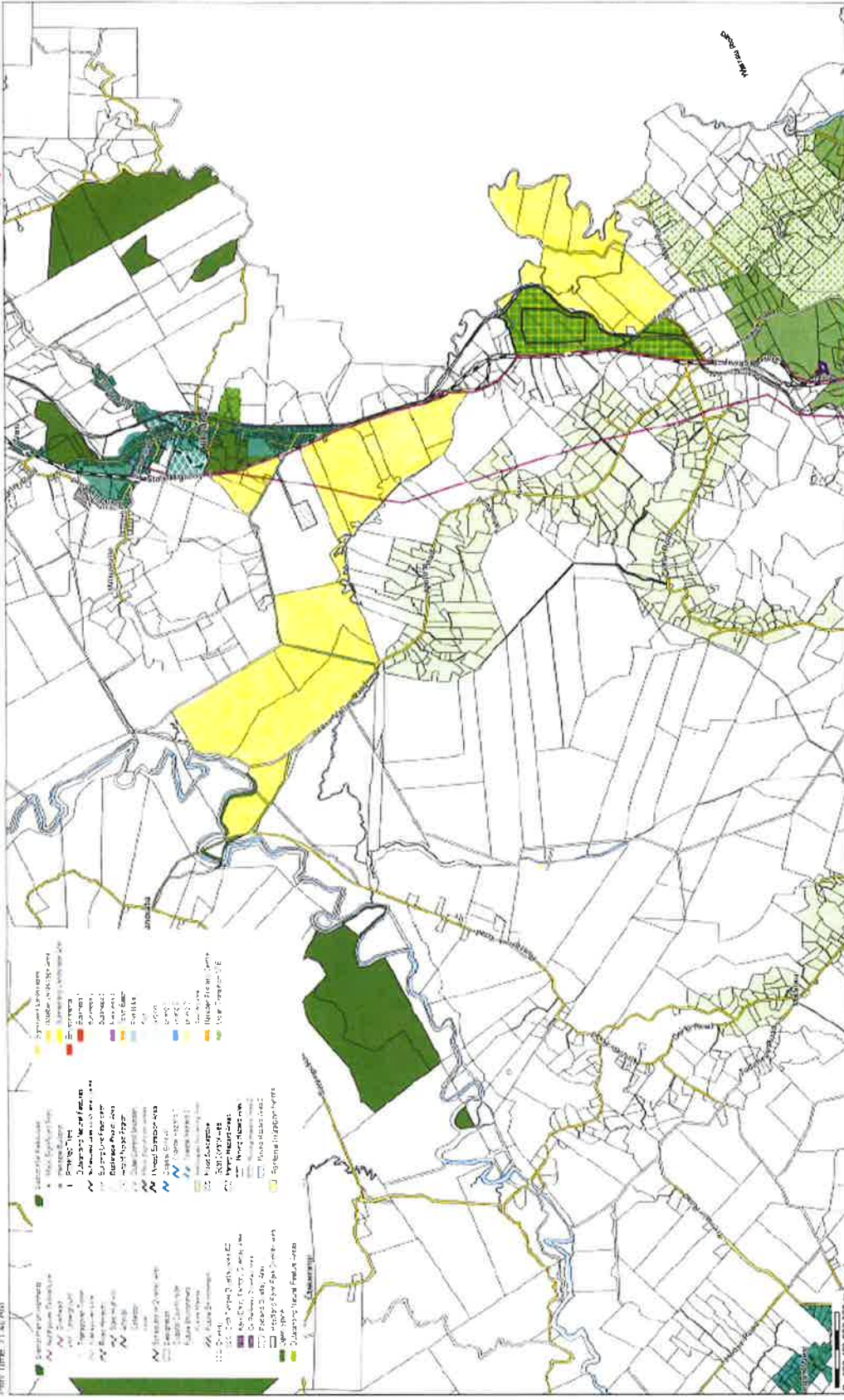
**Mike Doesburg**  
**Counsel for Fonterra Limited**

# Appendix 1 – Kauri Site and Irrigation Farms



## District Plan Map

Print Date: 4/10/2016  
Print Time: 11:42 AM



Scale: 1:25,000  
Original Source: The A3  
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12/10/15 10:42 AM 10/15/15