

Melanie Hunkin

From: Nicola Rykers <nicola.rykers@locality.co.nz>
Sent: Friday, 24 April 2020 11:30 a.m.
To: Jane Macartney; DistrictPlan
Cc: Ewan Chapman; Penny Gallagher; Jamie Robinson
Subject: Hearing 7 Synlait Feedback Attachment 4
Attachments: Hearing_7_Synlait_Revised_Provisions_April_2020.pdf

Dear Jane

On behalf of Synlait, please find attached a letter with accompanying feedback on the revised provisions for the Heavy Industrial Zone.

Should you have any questions or matters of clarification, please do feel free to give me a call or email.

Regards

Nicola

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LOCALITY
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24 April 2020

Waikato District Plan Review

Hearing coordinator

BY EMAIL: districtplan@waidc.govt.nz; jane.macartney@waidc.govt.nz

Attention: Jane McCartney

Dear Jane and Commissioners

SYNLAIT MILK LIMITED: INDUSTRIAL HEAVY ZONE: RESPONSE TO FURTHER OFFICERS' REPORT.

- 1 We attach to this letter a table which outlines Synlait's comments on the Council Officers' updated Heavy Industrial Zone Rules and policy following the hearing on 21 January 2020. That table should be read as part of this letter.
- 2 While Synlait appreciates the opportunity to review a revised set of rules, in this more informal process, it does so on the basis that nothing in this letter or table should be taken as Synlait conceding its position on the submissions presented.
- 3 **Enabling Provisions**
- 4 One of the clear directives of Commissioners was to reassess the rules package and the policies to make sure that both were enabling of the Industrial provisions generally and more particularly, the Heavy Industrial zone. Synlait supports this initiative.
- 5 A key aspect in developing enabling provisions for a heavy industrial zone, is to recognise that the nature and efficiency of activities is a driver of the level of effects experienced within the zone. The second element is the need to operate in a relatively unconstrained manner. These matters, require 24/7 operations, and recognition that the size, configuration and management of heavy industrial processing need to be "enabled" through policy 4.6.2.
- 6 Synlait's view is that the proposal presented by Council staff waters down the focus on enabling heavy industry free from the constraints of neighbouring zones. A clear example of that is the proposed changes to the noise provisions, as outlined below.

Noise provisions

- 7 One of the changes recommended by officers pulls back the threshold for permitted use for noise from 75 dB to 70 dB.
- 8 At the hearing, Synlait outlined that it purchased its site in the Heavy Industrial zone in specific reliance on the noise provisions. Whilst it has constructed its first stage of development, it has based its overall long-term noise budget for the site on the existing threshold.
- 9 The proposed Plan has already introduced a significant change to the noise environment, as it measures compliance at the site boundary, rather than notional boundary. A further reduction throttles the potential for full development of the site.

- 10 The issue is not whether Synlait can comply today, the greater issue is that when an overall site budget is calculated, it becomes highly problematic to pull that back without it being a major disincentive to full development of the site.
- 11 Both the zone description and the rules need to work in tandem to achieve the enabling objective set by the Commissioners.
- 12 Refining the zone statement, but pulling back thresholds for the measurement of effects, constrains, rather than enables a functional operating environment.
- 13 It will also call into question whether full development can occur, on any scale. In our reading of the Commissioners' directives, the focus for the Council officers' report was in relation to making sure that the policies and rules were both readable, and supported the underlying Industrial use.
- 14 Any recommendation from the Council officer to further reduce or remove development rights should be accompanied by an explanation consistent with the matters required to be addressed by s32. That analysis has not been provided and the recommendation appears inconsistent with the directive to enable industrial activities.

Bespoke Zone

- 15 The Commissioners also wanted an assessment of whether the Heavy Industrial zone was merited for Pokeno, given that it sits alongside a General Industrial Zone.
- 16 The changes made by Officers appear to reduce differentiation between the two zones rather than justifying the need for a more unconstrained Heavy Industrial zone.
- 17 Again, this decision is a more fundamental one for Commissioners to determine, but Synlait wishes to make the following points:
 - 17.1 This particular part of Pokeno has been well identified for many years as a site for Heavy Industrial. The uptake of industries supports that need, as do the growth patterns.
 - 17.2 Any decision to amalgamate the two industrial zones will be irreversible. The Council will never be able to create a purpose-built heavy industrial zone in the future if it concedes this point now.
 - 17.3 Undoubtedly there is pressure, from potential residential use to water down the Heavy Industrial framework, but in the context of available land, any concession will leave processing industries that are large, with requirements for 24/7 delivery and processing demands with no other feasible option within the District.
- 18 There was suggestion from other submitters that the Pokeno Heavy Industrial zone was a "bespoke" zone, and not necessary. We have outlined below the necessity of the Heavy Industrial zone for Synlait. However, regardless of that, the Heavy Industrial zone is not 'bespoke'. It is a genuine planning zone, as identified in the National Planning Standards, appropriate to be used where heavy industrial operations are anticipated as part of regional or local economies, such as those related to processing primary products.
- 19 On that basis, the Pokeno zoning is merited, and is consistent with the expectations of the zone as outlined in the National Planning Standards.

Proposed removal of the Heavy Industrial Zone for Pokeno

- 20 One of the reasons for the removal of the Heavy Industrial Zone as contemplated through questioning at the hearing appeared to centre on the necessity of it, given the Industrial General land immediately adjacent. For Synlait, the relevance of the Industrial General Zone

can be best described by comparing Synlait's plant (in the Heavy Industrial zone) with the Yashili Plant (in the Industrial General Zone).

- 21 Although the two appear to be quite similar as dairy processing plants, in reality there are critical differences. The key operational difference is that, as we understand it, Yashili does not currently receive fresh milk. Instead, it blends milk powder to create other products, rather than drying fresh milk on site.
- 22 Given this, Yashili may be less concerned with the operational activities associated with the reception and handling of a perishable product, with peak demand periods in the year. It's starting point is with a stable dried product.
- 23 In addition, the two factories were constructed under different planning regimes. Yashili went into the Industrial General zone with 'eyes wide open', knowing the limitations of that zone for noise production, for example. In contrast, Synlait elected to purchase in the proposed Heavy Industrial Zone, where the rules are more suited to intensive industrial activities and where fewer constraints are imposed on the operating environment, thereby optimising development opportunities into the future.
- 24 In addition to the above, Synlait is unsure where the scope for the removal of the Heavy Industrial Zone has come from.
- 25 Synlait has been unable to identify a submission that sought the complete removal of the Heavy Industrial Zone at Pokeno.
- 26 The legal issues where Commissioners go beyond the scope of submissions "on the plan" is not elaborated on here - but can be provided, where necessary.

Objectives and Policies for the Heavy Industrial zone

- 27 It was our understanding that the Commissioners had requested the Council staff review the policies and rules package to better enable the Heavy Industrial zone. As we have outlined above, we consider that the response from Council staff 'waters down' the Heavy Industrial zone. We consider this to be contrary to the National Planning Standards, which state specifically that the Heavy Industrial zone accommodate activities that may generate "potentially significant adverse effects". In contrast, the definitions in the National Planning Standards expect that the Light Industry zone is to have adverse effects consistent with residential amenity, and the General Industrial zone mentions only industrial activities, without the reference to adverse effects.
- 28 On that basis, we consider that the Council recommendation in relation to the Heavy Industrial zone is inconsistent with national guidance. It remains Synlait's position that the changes to policy wording as sought by Synlait is the most appropriate way to recognise the difference between the Heavy Industrial zone and the neighbouring general zone.

Overall readability

- 29 Synlait has not addressed issues of consistency and readability in this response beyond the wording of the specific zone policies and rules. We accept that it will be ultimately for the Commissioners to determine issues of consistency with other zones.

Back to the drawing board for s 32

- 30 The directions asked Council officers to provide a clear rationale for use of a single industrial zone or not, along with the use of bespoke provisions.

- 31 That type of analysis is not discernible from draft provisions, and if there is further information that sets out the analysis undertaken by Council officers, then Synlait would be interested to receive this.
- 32 As always, Synlait will participate in any further dialogue which is required by the Commissioners.

Yours sincerely



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WAIKATO DISTRICT PLAN REVIEW
 HEARING 7: INDUSTRIAL
 AMENDED PROVISIONS FOR HEAVY INDUSTRIAL ZONE: POKENO

Provision	Synlait Comment
<p>Chapter 4: Urban Environment</p> <p>Policy 4.6.2(a)(ii)</p> <p>Heavy Industrial Zone</p> <p>A. Recognise and provide for a range of heavy industrial and other compatible activities that may generate potentially high levels of visual impact from buildings and associated parking and loading spaces, outdoor storage, lighting, noise, odour and heavy traffic.</p>	<p>The amended wording for Policy 4.6.2(a)(ii) only goes part-way to addressing the issues raised by Synlait at the hearing.</p> <p>The evidence presented in support of Synlait’s submission sought a clear distinction between the General and Heavy industrial zones based on the operational environment and not just a relative assessment of potential effects.</p> <p>Synlait’s preferred wording is:</p> <p>Recognise and provide for <u>an operating environment for</u> a range of heavy industrial and other compatible activities that may generate <u>effects in respect of noise, odour, lighting, and heavy traffic and create</u> potentially high levels of visual impact from buildings and associated parking and loading spaces, outdoor storage, lighting, noise, odour and heavy traffic.</p> <p>A key feature of a heavy industrial zone is the opportunity to optimise operational efficiency without constraint from other activities. This is a key factor why a processing or manufacturing business would seek to locate its business in a heavy industrial zone. While the Heavy Industrial Zone locations are small in area and specifically defined in the plan, the focus should remain on providing for an overall operational efficiency at each site to enable full utilisation within the zone.</p> <p>In Synlait’s view its wording better meets the instruction from the Panel to enable the use of industrial land, better provides a clear rationale for what a heavy industrial zone is intended to deliver and will better assist the Council with processing future resource consents.</p>

<p>Policy 4.6.3 Maintain a sufficient supply and the integrity of industrial land</p> <p>(a) Maintain a sufficient supply and the integrity of industrial land within strategic industrial nodes to meet foreseeable future demands, having regard to the different requirements of general and heavy industries and the location of any sensitive land use or noise-sensitive activity.</p>	<p>Synlait considers the amended Policy 4.6.3 better addresses its concerns as expressed at the hearing. The amended policy requires the supply of future industrial zoned land to also consider the appropriateness of the location relative to the operating requirements of a heavy industrial zone.</p>
<p>Policy 4.6.5 Recognition of industrial activities outside of urban areas</p> <p>(a) Manage activities within specific sites containing lawfully established industrial activities that are not immediately adjacent to towns or villages.</p>	<p>No comment on Policy 4.6.5.</p>
<p>Policy 4.6.7 Management of adverse effects from industrial zones on adjoining sensitive zones</p> <p>(a) Manage adverse effects from the visual dominance of buildings, structures and ancillary parking and loading spaces on adjoining sensitive zones.</p> <p>(b) Manage adverse effects from the operation of industrial activities, including lighting, noise, odour and traffic, on adjoining sensitive zones.</p>	<p>Synlait's original submission was concerned that the title of Policy 4.6.7 was "Management of adverse effects <u>within</u> industrial zones" but the content of the policy was clearly not related to effects within zones, but external to the zone.</p> <p>The amended wording has resolved this matter by identifying that the policy is concerned with effects from industrial activities on adjoining sensitive activities and ecosystem values.</p> <p>Synlait remains concerned however that the new Policy 4.6.7(b) could be interpreted in a way that supports or allows the encroachment of sensitive activities on heavy industrial zones and may impose consequential limitations on heavy industrial activities. This concern could be addressed with the inclusion of clearer policy direction in Policy 4.6.2 which identifies the operational requirements of heavy industries and the need to protect these from encroachment by sensitive activities (the Auckland example was provided in planning evidence</p>

	<p>on behalf of Synlait). This would better meet the instruction from the Panel to enable the use of industrial land.</p> <p>Synlait notes Policy 4.7.11(b) which is not part of the Hearing 7 amendments. This policy seeks to avoid reverse sensitivity effects in the vicinity of an industrial activity from new dwellings. It may be appropriate to provide a cross-reference to this policy within the policy suite of Section 4.6.</p>
<p>Chapter 21: Heavy Industrial Zone</p> <p>Zone Description</p> <p>The Heavy Industrial Zone contains areas used predominantly for industrial activities that generate potentially significant adverse effects. This zone may also be used for associated activities that are compatible with the potentially significant adverse effects from industrial activities.</p>	<p>Synlait's view is that the Zone Description should be consistent with an amended Policy 4.6.2 and needs to describe the purpose of the Heavy Industrial Zone as enabling the efficient operation of heavy industry without constraint from other activities.</p> <p>In Synlait's view further amendment to the zone description would better meet the instruction from the Panel to enable the use of industrial land, better provide a clear rationale for what a heavy industrial zone is intended to deliver and will better assist the Council with processing future resource consents.</p>
<p>21.1.1 Permitted Activities</p> <p>P1 Industrial activity Nil</p> <p>P2 Trade and industry training activity Nil</p> <p>P3 Truck stop for refuelling Nil</p> <p>P4 Office ancillary to an industrial activity Less than 100m², or 30% gross floor area of all buildings on the site</p> <p>P5 Food outlet Less than 200m² gross floor area</p>	<p>No further comment on permitted activities.</p>

<p>P6 Ancillary retail</p> <p>P7 Emergency services training and management activities</p> <p>P8 Ancillary activity</p> <p>P9</p>	<p>Does not exceed 10% gross floor area of all buildings on the site</p> <p>Nil</p> <p>Nil</p>
<p>2.1.1.4 Non-Complying Activities</p> <p>Now includes a noise sensitive activity and a sensitive land use.</p>	<p>Synlait considers the additional non-complying activities appropriate.</p>
<p>2.1.2.1 Landscape Planting</p> <p>P2</p> <p>Any building or land use activity on a record of title that contains, or adjoins, a river or a permanent or intermittent stream, that is landscaped to the following minimum standards:</p> <p>(i) a 4 metre depth measured from the bank and extending across the entire length of the water body</p> <p>(ii) comprises mixed indigenous vegetation planted a maximum of 1.5 metres apart.</p>	<p>No further comment on landscape planting.</p>
<p>2.1.2.2.1A Noise Pokeno</p> <p>Permitted noise limits for the Heavy Industrial Zone in Pokeno</p> <p>Noise measured within any other site:</p> <p>(i) In the Heavy Industrial Zone in Pokeno that does not exceed:</p> <p>A. 70dB (LA) at any time</p>	<p>This proposed standard has the effect of reducing Synlait's existing operational environment. The change is opposed and does not meet the Panel's instruction to enable the use of industrial land.</p>

<p>Noise measured within a site in any zone, other than the Heavy Industrial Zone in Pokeno and the General Industrial Zone in Pokeno, that does not exceed the permitted noise limits for that zone.</p> <p>(c) Noise levels that are measured in accordance with the requirements of NZ 6801:2008 "Acoustics Measurements of Environmental Sound"</p> <p>(d) Noise levels that are assessed in accordance with the requirements of NZS 6802:2008 "Acoustics Environmental Noise"</p>	
<p>21.2.2.3 Noise – Construction</p> <p>Noise from any construction, maintenance, or demolition activity that is measured, assessed, managed and controlled in accordance with the requirements of NZS 6803:1999 Acoustics – Construction Noise.</p>	<p>No further comment on construction noise.</p>
<p>21.2.3 Glare and Artificial Light Spill</p> <p>Glare and artificial light spill that does not exceed 10 lux measured horizontally and vertically within any other site not located in the Heavy Industrial Zone or General Industrial Zone.</p>	<p>No further comment on glare and artificial light spill.</p>
<p>21.2.4.1 Earthworks – General</p> <p>PI Earthworks within a site, that may or may not involve imported cleanfill material, for the purpose of creating a building platform and/or ancillary hardstand area.</p>	<p>No further comment on earthworks.</p>

<p>P2</p>	<p>(e) Earthworks (excluding imported fill material) within a site that:</p> <ul style="list-style-type: none"> • are located more than 1.5 metres from any water body, open drain or overland flow path • do not exceed a volume of 10,000m³ • do not exceed an area of 10,000m² within a 12 month period • do not exceed a slope in stable ground of 1:2 (1 metre vertical to 2 metre horizontal) • result in exposed areas being re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks, or finished with a hardstand surface • result in sediment being retained on the site through implementation and maintenance of erosion and sediment controls • do not result in any change to natural water flows, any water body or established drainage path. 	
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<p>P3</p> <p>(a) Earthworks involving imported fill material (excluding cleanfill material) for purposes other than creating a building platform within a site, that:</p> <ul style="list-style-type: none"> (i) are located more than 1.5 metres from any water body, open drain or overland flow path (ii) do not exceed a volume of 10,000m³ (iii) do not exceed a slope in stable ground of 1:2 (1 metre vertical to 2 metre horizontal) (iv) result in exposed areas being re-vegetated to achieve 80% ground cover within 6 months of the commencement of the earthworks, or finished with a hardstand surface (v) result in sediment being retained on the site through implementation and maintenance of erosion and sediment controls (vi) do not result in any change to natural water flows, any water body or established drainage path. 	<p>Synlait's submission noted that the Chapter 21 provisions do not permit signs for way-finding, health and safety and regulatory compliance. The s42A advised that such a rule already exists in Chapter 14 Infrastructure and Energy and that particular rule could be amended to apply to all activities and not just infrastructure.</p> <p>In that scenario Synlait had requested that there be a cross-reference in Chapter 21 to Chapter 14. A hyper-link or cross-reference needs to be shown in the draft provisions.</p> <p>No further comment on height.</p>
<p>21.2.6.1 Signs- General</p>	
<p>21.3.1 Building Height</p> <p>A building that does not exceed a height of:</p> <ul style="list-style-type: none"> (i) 35 metres for 2% of the net site area; and (ii) 20 metres over the balance of the net site area. 	

<p>21.3.4 Height in relation to boundary</p> <p>A building that does not project beyond a 45 degree height control plane measured from a point 3 metres above natural ground level along the boundary of a site located outside of a Heavy Industrial Zone or General Industrial Zone.</p>	<p>Synlait opposes this provision. As presented in evidence at the hearing, Synlait supports a Height in Relation to Boundary control only where adjoining a Residential Zone.</p> <p>There has been insufficient justification for this rule and no explicit consideration of the cost to a heavy industrial landowner in terms of inefficient land use compared with costs to an adjoining rural land owner.</p> <p>This provision has the effect of reducing Synlait’s operational environment. The change is opposed and does not meet the Panel’s instruction to enable the use of industrial land.</p>
<p>21.3.5.1 Building setback – all boundaries</p> <p>A building that is set back at least:</p> <ul style="list-style-type: none"> (f) 5 metres from a road boundary (g) 3 metres from any other boundary where the site adjoins another zone, other than the General Industrial Zone. 	<p>No further comment in relation to setbacks.</p> <p>It is noted however that whilst retaining the height in relation to boundary control, the setback from the boundary of a site in a different zone has been reduced. This suggests an inconsistency in the management of the interface between industrial and other zones.</p>