

**BEFORE INDEPENDENT COMMISSIONERS**

**UNDER**

the Resource Management Act 1991

**AND**

**IN THE MATTER**

of Proposed Plan Change 26 to the Operative Waipā  
District Plan

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**STATEMENT OF EVIDENCE OF MARK BULPITT CHRISP  
ON BEHALF OF FONTERRA LIMITED**

**PLANNING**

**6 APRIL 2023**

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## 1. INTRODUCTION

- 1.1 My full name is Mark Bulpitt Chrisp.
- 1.2 I am a Director and a Principal Environmental Planner in the Hamilton Office of Mitchell Daysh Ltd, a company which commenced operations on 1 October 2016 following a merger of Mitchell Partnerships Ltd and Environmental Management Services Ltd (of which I was a founding Director when the company was established in 1994 and remained so until the merger in 2016).
- 1.3 In addition to my professional practice, I am an Honorary Lecturer in the Department of Geography, Tourism and Environmental Planning at the University of Waikato. I am also the Chairman of the Environmental Planning Advisory Board at the University of Waikato, which assists the Environmental Planning Programme in the Faculty of Arts and Social Sciences in understanding the educational, professional and research needs of planners.
- 1.4 I have a Master of Social Sciences degree in Resources and Environmental Planning from the University of Waikato (conferred in 1990) and more than have 30 years' experience as a Resource Management Planning Consultant.
- 1.5 I am a member of the New Zealand Planning Institute, the New Zealand Geothermal Association, and the Resource Management Law Association.
- 1.6 I am a Certified Commissioner under the Ministry for the Environment's 'Making Good Decisions' course.
- 1.7 I have appeared as an Expert Planning Witness in numerous Council and Environment Court hearings, as well as several Boards of Inquiry (most recently as the Expert Planning Witness for the Hawke's Bay Regional Investment Company Ltd's proposed Ruataniwha Water Storage Scheme).
- 1.8 I have undertaken a substantial amount of work within the dairy sector working for New Zealand Dairy Group and then Fonterra Ltd ("**Fonterra**") over the last 30 years. Over that time, I have undertaken planning work in respect to all of Fonterra's dairy manufacturing sites in the Northland, Auckland, Waikato and Bay of Plenty regions. This has included re-consenting existing dairy manufacturing operations and/or associated spray irrigation of wastewater (e.g. the Hautapu and Edgecumbe sites) and major capacity expansion projects.

- 1.9 I have assisted Fonterra in resource management matters relating to the Hautapu Dairy Manufacturing Site ("**Hautapu Site**") and the Te Awamutu Dairy Manufacturing Site ("**Te Awamutu Site**") over the last 25 years. This has included:
- (a) Securing a Certificate of Compliance for two new driers on the Te Awamutu Site;
  - (b) Renewal of regional resource consents for the on-going operation of the Te Awamutu Site;
  - (c) Securing a Certificate of Existing Use Rights in relation to noise levels associated with the operation of the Hautapu Site;
  - (d) A submission on the Notice of Requirement for the Cambridge Section of the Waikato Expressway (which now passes through what was a larger Bardowie Farm);
  - (e) Submissions on the Proposed Waipa District Plan (as it has evolved over the last three decades) in relation to the zoning and associated planning provisions relating to the Te Awamutu Site and the Hautapu Site and surrounding land;
  - (f) Renewal of resource consents for the spray irrigation of dairy factory wastewater on the Bardowie, Bruntwood and Buxton Farms owned by Fonterra; and
  - (g) Resource consents for a Wastewater Treatment Facility on the Hautapu Site (which is about to be constructed).
- 1.10 I have had extensive experience assisting operators of large-scale industrial activities and/or energy infrastructure seeking to avoid the creation of potential reverse sensitivity effects. This includes work undertaken for Fonterra in respect to its dairy manufacturing sites and work undertaken for Contact Energy in relation to its geothermal power stations and associated steamfield activities (including 24/7 drilling activities and steam venting) in the Central North Island.

#### **Scope of Evidence**

- 1.11 I have been engaged by Fonterra to present planning evidence in relation Plan Change 26 ("**PC26**") to the Waipā District Plan ("**WDP**"). Specifically, my evidence will:

- (a) Provide an overview of Fonterra's submission on PC26;
- (b) Outline the statutory planning framework applicable to PC26 and the Te Awamutu Site;
- (c) Describe the importance of the Te Awamutu Site, including as regionally significant industry;
- (d) Set out the importance of protecting the Te Awamutu Site from the adverse effects of reverse sensitivity;
- (e) Provide reasons why I support the inclusion of a Reverse Sensitivity Qualifying Matter ("**RS-QM**") as part of PC26;
- (f) Address the requirements of Sections 77J and 77L of the Resource Management Act 1991 ("**RMA**");
- (g) Respond to matters raised in the section 42A report;
- (h) Address the requirements of section 32AA of the RMA; and
- (i) Present an overall conclusion.

1.12 The evidence of Ms Suzanne O'Rourke provides a summary of Fonterra's manufacturing assets in the Waipā District, which I do not repeat in my statement of evidence.

### **Code of Conduct**

1.13 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state that I have relied on the evidence of other persons. I have not omitted to consider material facts known to me that might alter or detract from the opinions I have expressed.

## **2. FONTERRA'S SUBMISSION**

2.1 Fonterra's submission supports the intent of PC26 in giving effect to the requirements of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 ("**RMA-EHS**") and the May 2022 update of the National Policy Statement on Urban Development 2020 ("**NPS-UD**"). The submission states that Fonterra considers that further refinement is

required to ensure that urban development and intensification occurs in a manner that minimises land use conflicts as far as practicable, including avoiding or minimising the potential for reverse sensitivity effects. The key amendments to PC26 sought by Fonterra are:

- (a) Add a new qualifying matter that applies to all of the land within the 55 dBA Ldn noise contour surrounding the Hautapu Site and the land within 100m of the rural farmland that is utilised by the Hautapu Site for spray irrigation purposes to enable potential reverse sensitivity effects to be assessed and mitigated;
  - (b) Add a new qualifying matter that applies to all of the land within the 55 dBA Ldn noise contour surrounding the Te Awamutu Site (the areas immediately to the east, south and west of the Dairy Factory), and the land surrounding the storage and distribution facilities associated with the Te Awamutu Site accessed from 487 Factory Road, Te Awamutu to enable potential reverse sensitivity effects to be assessed and mitigated; and
  - (c) Make amendments to the objectives, policies and rules for the Medium Density Residential Zone to include consideration of reverse sensitivity effects.
- 2.2 Within the proposed RS-QM two dwellings would be permitted, rather than the three provided for via the MDRS.
- 2.3 As is identified in the section 42A report<sup>1</sup>, the proposed RS-QM is only relevant in the Te Awamutu context due to there being a relevant Residential Zone in proximity (as the Hautapu Site is surrounded by Rural Zone and Industrial Zone land, and the spray irrigation areas are also surrounded by Rural Zone land). This statement of evidence therefore only addresses the Te Awamutu Site.

### **3. CURRENT PLANNING FRAMEWORK**

- 3.1 The following section of my evidence identifies and briefly summarises the relevant provisions of the statutory planning framework applicable to PC26 and the Te Awamutu Site.

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<sup>1</sup> Paragraph 9.17.71 of the section 42A report.

## National Policy Statement on Urban Development

- 3.2 The NPS-UD requires, among other things, that Tier 1 territorial authorities<sup>2</sup> amend their RMA plans to enable intensification in urban areas where people want to live and work. To do this, these Tier 1 authorities must incorporate specific Medium Density Residential Standards ("**MDRS**") into every residential zone in their district plans.
- 3.3 While PC26 focuses on implementing the residential requirements of the NPS-UD, I note that there are several provisions that also require:
- (a) Urban environments to be well functioning to provide for, among other matters, economic wellbeing<sup>3</sup>;
  - (b) District plans to enable more business to be located in areas of urban environment<sup>4</sup>; and
  - (c) Provide for sufficient development capacity to meet expected demand for business land<sup>5</sup> (the definition of business land includes the Industrial Zone).
- 3.4 In my opinion, while the NPS-UD requires residential intensification, this intensification needs to be supported by appropriate business land and employment opportunities (which enable and support economic wellbeing).
- 3.5 The height and density residential intensity requirements of the NPS-UD can only be modified to the extent necessary to accommodate a Qualifying Matter in the area<sup>6</sup>. Section 3.32 of the NPS-UD sets out what a qualifying matter is. The most pertinent to the Fonterra submission, is:
- (h) *any other matter that makes higher density development as directed by Policy 3 inappropriate in an area, but only if the requirements of clause 3.33(3) are met.*
- 3.6 Clause 3.33 requires an evaluation report be prepared under section 32 of the RMA in respect of the proposed amendment which must:
- (a) Demonstrate why the area should be subject to a qualifying matter;

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<sup>2</sup> Waipa District Council is a Tier 1 local authority.

<sup>3</sup> NPS-UD Objective 1.

<sup>4</sup> NPS-UD Objective 3.

<sup>5</sup> NPS-UD Policy 2.

<sup>6</sup> NPS-UD Policy 4.

- (b) Demonstrate why the qualifying matter is incompatible with the level of development directed by Policy 3 for that area;
- (c) Assess the impact that limiting development capacity, building height or density (as relevant) will have on the provision of development capacity;
- (d) Assess the costs and broader impacts of imposing those limits;
- (e) Identify the specific characteristic that makes the level of development directed by Policy 3 of the NPS-UD inappropriate in the area, and justify why that is inappropriate in light of the national significance of urban development and the objectives of the NPS-UD;
- (f) Include a site-specific analysis that:
  - (i) Identifies the site to which the matter relates;
  - (ii) Evaluates the specific characteristics on a site-specific basis to determine the spatial extent where intensification needs to be compatible with the specific matter; and
  - (iii) evaluates an appropriate range of options to achieve the greatest heights and densities directed by Policy 3, while managing the specific characteristics.

3.7 These matters are also required by sections 77J and 77L of the RMA. I provide the analysis required by 3.32 of the NPS-UD and sections 77J and 77L of the RMA below.

#### **Waikato Regional Policy Statement**

3.8 Under the Waikato Regional Policy Statement ("**Waikato RPS**"), it is my view that the Te Awamutu Site is 'Regionally Significant Industry', which is defined as follows:

Regionally significant industry - means an economic activity based on the use of natural and physical resources in the region and is identified in regional or district plans, which has been shown to have benefits that are significant at a regional or national scale. These may include social, economic or cultural benefits.

3.9 Policy 1.3.1.7 of the Waipā District Plan ("**WDP**") identifies the Te Awamutu Site as being a 'regionally important site', and paragraph 7.1.6 of the WDP

identifies that the Te Awamutu site is a significant industry and is important to the local and regional economy.

- 3.10 The Waikato RPS sets out an extensive range of strongly worded policy directives in relation to the built environment, including Regionally Significant Industry, relevant to PC26 and the proposed RS-QM for the Te Awamutu Site.
- 3.11 The direction of the Waikato RPS, in my view, is that development of the built environment should be enabled (for example, through residential intensification that is provided for under UFD-P12), while also ensuring that adverse effects (including adverse reverse sensitivity effects) be avoided, remedied and/or mitigated.
- 3.12 Reverse sensitivity is defined in the Waikato RPS as follows, with the definition recognising that it occurs when a new activity perceives that there are environmental effects from an existing lawfully established activity:
- Is the vulnerability of a lawfully established activity to a new activity or land use. It arises when a lawfully established activity causes potential, actual or perceived adverse environmental effects on the new activity, to a point where the new activity may seek to restrict the operation or require mitigation of the effects of the established activity.
- 3.13 I note that the Waikato RPS is currently subject to a change process ("**Change 1**") to (among other matters) give effect to the provisions of the NPS-UD. Change 1 does not directly amend the provisions relating to the management of the potential for reverse sensitivity effects. The key Waikato RPS provisions relating to Regionally Significant Industry and the management of reverse sensitivity are:
- (a) To recognise and provide for the role of sustainable resource use and development and its benefits in enabling people and communities to provide for their economic, social and cultural wellbeing, including by maintaining and where appropriate enhancing access to natural and physical resources to provide for regionally significant industry and primary production activities that support such industry<sup>7</sup>;
  - (b) The integration of land use and infrastructure planning, including by ensuring that development of the built environment does not



compromise the safe, efficient and effective operation of infrastructure corridors<sup>8</sup>;

- (c) The minimisation of land use conflicts, including minimising the potential for reverse sensitivity<sup>9</sup>;
- (d) The management of natural and physical resources providing for the continued operation and development of regionally significant industry by recognising the value and long-term benefits of regionally significant industry to economic, social and cultural wellbeing and avoiding or minimising the potential for reverse sensitivity<sup>10</sup>;
- (e) That local authorities have particular regard to the potential for reverse sensitivity when assessing resource consent applications, preparing, reviewing or changing district or regional plans and development planning mechanisms such as structure plans and growth strategies. In particular, consideration should be given to discouraging new sensitive activities, locating near existing and planned land uses or activities that could be subject to effects including the discharge of substances, odour, smoke, noise, light spill, or dust which could affect the health of people and / or lower the amenity values of the surrounding area<sup>11</sup>;
- (f) The maintenance of industrially zoned land for industrial activities unless it is ancillary to those industrial activities<sup>12</sup>; and
- (g) That new development should be directed away from identified regionally significant industry and not result in incompatible adjacent land uses (including those that may result in reverse sensitivity effects), such as industry, rural activities and existing or planned infrastructure<sup>13</sup>.

3.14 In addition, Implementation Method IM-28 (plan provisions) of the Waikato RPS requires that district plans should provide for regionally significant industry by:

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<sup>8</sup> Waikato RPS Objective UFD-O1(3).

<sup>9</sup> Waikato RPS Objective UFD-O1(7).

<sup>10</sup> Waikato RPS Policy IM-P4.

<sup>11</sup> Waikato RPS – Implementation Method UFD-M2.

<sup>12</sup> Waikato RPS – Policy UFD-P13(6).

<sup>13</sup> Waikato RPS – APP11(h) and (o) (Development principles).

- (a) Identifying appropriate provisions, including zones, to enable the operation and development of regionally significant industry;
- (b) Maintaining and where appropriate enhancing access to natural and physical resources for regionally significant industry and primary production, while balancing the competing demand for these resources;
- (c) Recognising the potential for regionally significant industry activities to have adverse effects beyond its boundaries and the need to avoid or minimise the potential for reverse sensitivity effects;
- (d) Recognising the need to ensure regionally significant industry is supported by infrastructure networks of appropriate capacity;
- (e) Recognising the benefits of enabling the co-location of regionally significant industry to support efficient use of infrastructure, and minimise transportation requirements;
- (f) Recognising and balancing the competing demands for resources between regionally significant industry, primary production and other activities;
- (g) Ensuring the adverse effects of regionally significant industry and primary production are avoided, remedied or mitigated; and
- (h) Promoting positive environmental outcomes.

3.15 In my opinion, the Waikato RPS provides a clear directive that the WDP (including PC26) must include measures to avoid or minimise the potential for reverse sensitivity effects on established Regionally Significant Industry, such as the Te Awamutu Site. The WDP must 'give effect' to the Waikato RPS, and this policy direction, in my opinion, provides strong policy support for the proposed RS-QM.

#### **Waipā District Plan**

3.16 In the context of the WDP, the Waikato RPS provisions I summarised above are given effect in the following manner:

- (a) The inclusion of Dairy Manufacturing Noise Contour on the planning maps, and associated rule framework, that recognises that within the noise contour area the noise environment can be elevated due to the operations at the Te Awamutu Site (and places noise limits on Te

Awamutu Site operations in respect of noise outside of the contour). This is shown on Figure 1 below.

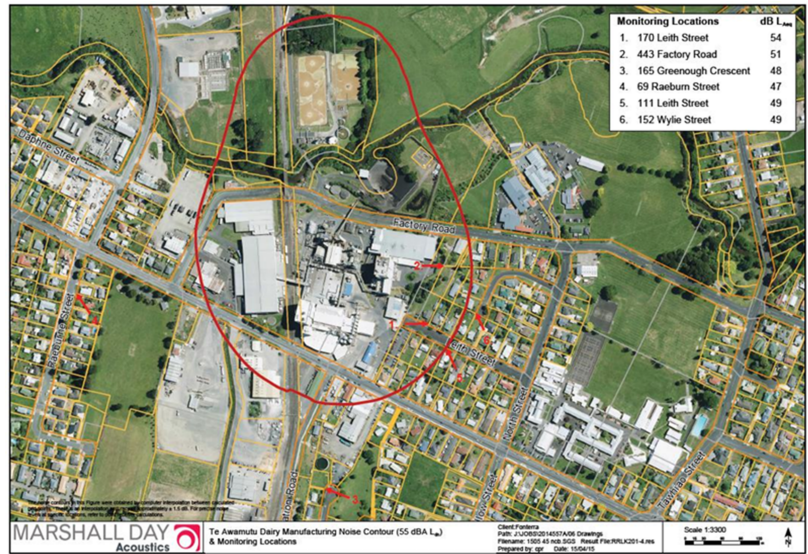


Figure 1: Te Awamutu Noise Contour (Map 7.4.3(a) of the WDP).

(b) The inclusion of a 'Specialised Dairy Industrial Area' overlay and associated rule framework that requires activities not associated with the manufacturing of dairy products within the Specialised Dairy Industrial Area to obtain resource consent (as a restricted discretionary activity). Figure 2 below shows the present Specialised Dairy Industrial Area in the WDP relevant to the Te Awamutu Site.

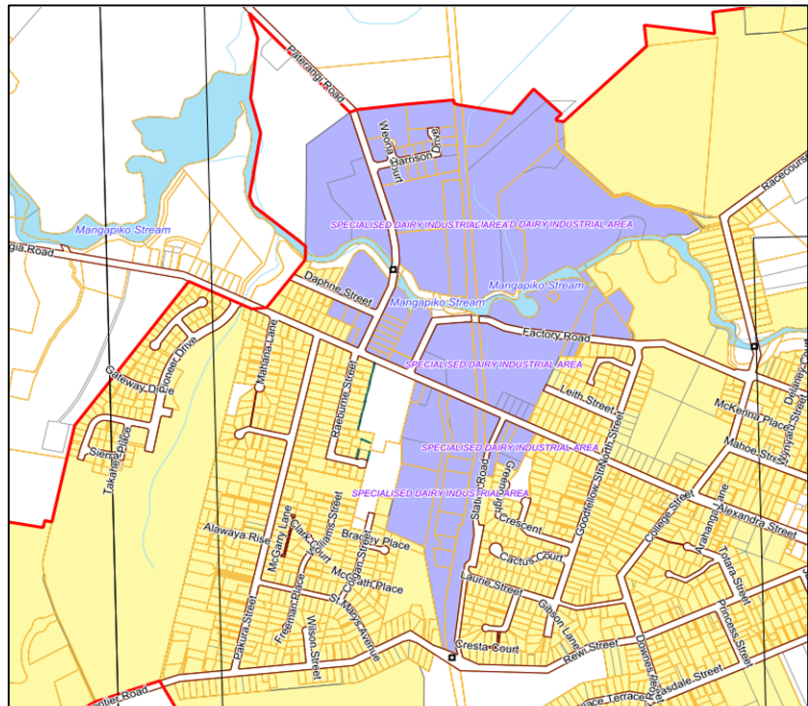


Figure 2: Specialised Dairy Industrial Area (purple) and Residential Zone (yellow) – Te Awamutu Site.

- (c) The inclusion of specific transportation standards for the Te Awamutu Site (Appendix T7).

3.17 While I acknowledge the WDP must be amended to give effect to the NPS-UD and include the MDRS, in my opinion PC26 should also recognise the strong directives of the Waikato RPS in respect of providing for Regionally Significant Industry and the management of reverse sensitivity. In my opinion, the proposed RS-QM is the appropriate method to achieve those outcomes.

#### **4. IMPORTANCE OF THE DAIRY MANUFACTURING SITES**

4.1 As set out in Fonterra's primary submission, Fonterra is New Zealand's largest company, and a significant employer, with more than 11,000 New Zealand based staff and more than 6,500 employees based overseas.

4.2 Fonterra owns and operates the Te Awamutu Site, located at 1498 Alexandra Street, and the storage and distribution facilities associated with the dairy factory (accessed from 487 Factory Road). The dairy factory has operated at the site for almost 140 years and employs more than 330 people.

4.3 The site processes up to 3 million litres of milk (peak) from Fonterra farmer shareholders every day during the milk production season. There are a total of three plants which produce a range of whole milk powders, butter and milk fat. It is the sixth largest producer of dairy ingredients in New Zealand, and the main buttermilk producer in the Waikato Region.

4.4 Wastewater is treated onsite via an existing wastewater treatment plant to the north of the existing Te Awamutu Site buildings.

4.5 The Te Awamutu Site is located within the urban centre of Te Awamutu and is surrounded by residential activities, including residential zoned land immediately to the east, south and west. The existing residential area immediately to the east is directly adjacent to the Te Awamutu Site. Similarly, the existing residential areas to the south and west are located in close proximity to the Te Awamutu Site (on the opposite side of Factory Road to the west, and Alexandra Street to the south).

4.6 The WDP acknowledges the importance of the Te Awamutu Site (and the need to ensure compatible activities establish adjacent to the site) through the Specialised Dairy Industrial Area and the noise contour, in the introduction section of the Industrial Zone chapter as follows:

The existing dairy manufacturing sites at Te Awamutu and Hautapu are significant industries that are important to the local and regional economy. The food producing activities that are carried out on these sites are sensitive to other industrial activities. This Plan recognises the sensitive nature of these sites by incorporating specific provisions in the 'Specialised Dairy Industrial Area'. This Plan also recognises that the Te Awamutu and Hautapu Dairy Manufacturing sites were developed a long time ago and the activities undertaken at those sites are often authorised by existing use rights rather than the current District Plan rules.

- 4.7 The resource management issues for the Industrial Zone set out that the milk processing activities undertaken within the Te Awamutu Site are of regional significance and can be affected by the nature of other developments, due to the sensitive nature of food production<sup>14</sup>.
- 4.8 Additionally, the WDP contains the following policy directives relevant to the Te Awamutu Site:
- (a) To achieve a consolidated settlement pattern that (among other matters), supports the continued operation, maintenance, upgrading and development of regionally important sites<sup>15</sup>;
  - (b) The protection of the ability for the Te Awamutu Site to continue to operate, grow and develop by limiting noise sensitive activities on surrounding sites<sup>16</sup>;
  - (c) To ensure the increased demand on infrastructure near the Te Awamutu Site is managed in an integrated manner by allowing the provision of private on-site infrastructure where it cannot practicably be provided through municipal supply because of timing, design, operational constraints or because other more sustainable methods are available (i.e. land disposal)<sup>17</sup>;
  - (d) The Industrial Zone is developed in a manner that protects industrial activities from incompatible land uses that could result in reverse sensitivity effects<sup>18</sup>;

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<sup>14</sup> Issue 7.2.3 of the WDP.

<sup>15</sup> WDP Objective 1.3.1(b).

<sup>16</sup> WDP Policy 1.3.1.7.

<sup>17</sup> WDP Policy 1.3.2.7.

<sup>18</sup> WDP Objective 7.3.1(b).

- (e) The Industrial Zone is developed in a manner that protects the ability for the Te Awamutu Site to continue to operate and expand within the site<sup>19</sup>;
- (f) The protection of the ability of the Te Awamutu Site to continue to operate and develop by managing activities on surrounding sites within the Specialised Dairy Industrial Area, where they could adversely affect the operation of the Te Awamutu Site<sup>20</sup>;
- (g) When upgrading components of the site, to progressively reduce noise emissions where practicable<sup>21</sup>;
- (h) Require activities within the Specialised Dairy Industrial Area that are not related to the processing of milk and production of milk related products (excluding rural based industrial activities) to obtain resource consent as restricted discretionary activity, with the only matter of discretion being reverse sensitivity effects on the operation of the Te Awamutu Site<sup>22</sup>;
- (i) Acknowledging, as a resource management issue, that there is the potential for reverse sensitivity effects when noise sensitive activities locate close to some existing activities such as the Te Awamutu Dairy Manufacturing Site<sup>23</sup>;
- (j) To maintain anticipated levels of residential amenity and to reduce the potential for reverse sensitivity effects on the Te Awamutu Dairy Manufacturing Site by requiring new dwellings or bedroom additions to be acoustically treated<sup>24</sup>; and
- (k) Where a noise sensitive activity is proposed within the 55 dBA Ldn noise contour associated with the Te Awamutu Site, it shall be designed to achieve 35dB LAeq inside habitable rooms of new dwellings or new habitable rooms to existing dwellings whether attached or detached<sup>25</sup>.

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<sup>19</sup> WDP Objective 7.3.1(c).

<sup>20</sup> WDP Policy 7.3.1.2(b).

<sup>21</sup> WDP Policy 7.3.3.3.

<sup>22</sup> WDP Rule 7.4.1.1(t) and Rule 7.4.1.3(d).

<sup>23</sup> WDP Resource Management Issue 2.2.7.

<sup>24</sup> WDP Policy 2.3.2.11.

<sup>25</sup> WDP Rule 2.4.2.31.

## 5. IMPORTANCE OF REVERSE SENSITIVITY ISSUES

5.1 I understand that various decisions of the Environment Court have identified the following "planning principles" with respect to reverse sensitivity and are directly relevant to the intensification of residential activity in proximity to Fonterra's existing dairy manufacturing sites:

- (a) The concept of reverse sensitivity is an accepted effect under the RMA and may arise when more sensitive activities locate in close proximity to existing activities. Those existing uses form part of the "existing environment" which have actual or potential offsite effects that cannot be fully internalised. The owners and occupiers of these new more sensitive land uses then seek to constrain the existing use or, just as importantly, will oppose any attempt to further develop or expand the existing activity.
- (b) District councils are responsible for managing these reverse sensitivity effects (e.g. by making appropriate provisions in their District Plans and in the determination of resource consent applications).
- (c) Generally, buffer zones or setbacks (in this case, the WDP includes a Specialised Dairy Industrial Area overlay as already discussed) are appropriate around existing (less sensitive) activities where those uses have taken reasonable steps to avoid, remedy or mitigate their offsite effects. Sensitive uses seeking to establish within those zones or setbacks are required to be assessed against various criteria to determine the potential level of reverse sensitivity effects, and may be subject to conditions (e.g. acoustic insulation) reducing those potential effects.

5.2 I am aware that Fonterra's experience has been that it is not always the actual effects of large-scale industrial activities which give rise to reverse sensitivity issues, but rather the perception of an adverse effect caused by higher expectations of amenity being imposed on the environment by neighbouring land use activities. This is discussed further in the evidence of Ms O'Rourke.

5.3 In my experience, reverse sensitivity can manifest in several ways, including:

- (a) Complaints from third parties in relation to the effects of lawfully established industrial activities, and the costs for those existing activities associated with having to respond to such complaints (irrespective of the merits of those complaints);

- (b) Additional costs associated with resource consent applications (eg notification requirements);
- (c) An increased likelihood of submissions in opposition to resource consent applications made by the operators of industrial activities and appeals in relation to any decision to grant such consents; and
- (d) Submissions and/or further submissions on district and regional plans that seek greater limitations or restrictions (e.g., reduced noise limits) on existing industrial activities.

5.4 As explained by Ms O'Rourke, an increase in the residential density around the Te Awamutu Site has the potential to increase the potential for reverse sensitivity effects to impact on the operations (and upgrading or expansion) of the Te Awamutu Site.

5.5 I note that the further submission of Kainga Ora on Fonterra's primary submission opposes any relief relating to reverse sensitivity on the basis that effects should be managed 'at source' as far as practicable. While I agree that the effects should be managed at source as far as practicable, it is not realistic (or required by the RMA) for all effects to be fully internalised. As I have already discussed, there is strong policy direction in the higher order planning documents that recognise the importance of business land, significant industries, and the importance of managing reverse sensitivity.

5.6 I further note the evidence of Ms O'Rourke that states [**emphasis added**]:<sup>26</sup>

Importantly, reverse sensitivity and its associated complaints arise in the context of **compliant activities, being those activities that are authorised by way of resource consent and/or comply with permitted activity standards in regional and district plans**. Like other major industrial operators, reverse sensitivity issues can, and do, affect Fonterra's activities regardless of our compliance with these planning instruments. This is because **it is often the perception of effects, rather than actual effects, that leads to complaints from sensitive land users**.

5.7 In my view, reverse sensitivity is as much about *perceived* effects as it is about the *actual* environmental effects that are raised in the Kainga Ora further submission.

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<sup>26</sup>

At paragraph 4.2.



## 6. PC26

- 6.1 The existing WDP rules (within the Residential Zone) provides for one principal dwelling and one secondary dwelling per site as a permitted activity<sup>27</sup>, subject to compliance with relevant standards. When viewed in the context of the Te Awamutu Site, the intensification plan change proposes to permit three dwellings per site, potentially tripling the number of principal dwellings in proximity to this existing asset (compared to existing district planning rules), and subsequently, the number of residents who will have an interest in protecting residential amenity values (an outcome higher than that expected in an industrial environment). It is my opinion that this is not appropriate in such proximity to established dairy manufacturing sites. I am of the opinion that an increase in residential intensity around established industrial activities has the potential to result in reverse sensitivity issues which, in turn, can significantly curtail Fonterra's current and future operations at these affected sites.
- 6.2 While I recognise the overall intent of PC26 in incorporating the MDRS in a manner suitable for the Waipā District, I consider that to address the matters I have discussed, further refinements are required to ensure that the management of reverse sensitivity is considered alongside the intensification requirements. My proposed amendments are set out in **Annexure A**.

## 7. SECTIONS 77J AND 77L ASSESSMENT

- 7.1 The following presents my analysis of the proposed RS-QM against the requirements of sections 77J and 77L of the RMA.

### Section 77J RMA

*Demonstrate why the area is subject to a qualifying matter and why the qualifying matter is incompatible with the level of development permitted by the MDRS or as provided for by policy 3 of the NPS-UD (section 77J(3)(a)):*

- 7.2 Section 4 and section 5 of this brief of evidence sets out the importance of the Te Awamutu Site to the Waipā District and discusses why the potential for reverse sensitivity effects needs to be managed. Further intensification around the Te Awamutu Site has the potential to exacerbate the potential for reverse sensitivity effects (and thus the level of development as permitted by the MDRS is incompatible with the operations at the Te Awamutu Site).

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<sup>27</sup>

WDP Rule 2.4.1.1(b)

*Assess the impact that limiting development capacity, building height, or density (as relevant) will have on the provision of development capacity (section 77J(3)(b)):*

- 7.3 The proposed RS-QM does not further limit the development capacity, as the Infrastructure Constraint Qualifying Matter and Stormwater Constraint Qualifying Matters already provide the same restriction or constraints for achieving the density required by the MDRS. In addition, the RS-QM is not seeking to completely limit intensification, with two dwellings being able to be built as a permitted activity. In addition, the area over which the RS-QM will apply is confined to a small number of residential properties (see paragraphs [7.13]-[7.16] and Figure 4 below) and so the anticipated effect on development capacity is negligible.

*Assess the costs and broader impacts of imposing limits through the qualifying matter (section 77J(3)(c)):*

- 7.4 As I have already discussed, due to the existing constraints on stormwater and general infrastructure, the WDC has already deemed the level of development provided by the MDRS inappropriate for the area where the RS-QM is proposed to apply. The proposed RS-QM therefore has no additional costs, and I note it is only being applied to a relatively small area (when compared to the Te Awamutu urban area as a whole).

*A description of how the provisions of the district plan allow the same or greater level of development than the MDRS (section 77J(4)(a)):*

- 7.5 The provisions of the WDP do not allow the same or greater level of development than the MRDS. However, the RS-QM still enables some intensification greater than the current WDP provides, but slightly less than the MDRS.

*A description of the modifications to the MDRS as applied to the relevant residential zones are limited to only those modifications necessary to accommodate qualifying matters (section 77J(4)(b)):*

- 7.6 The proposed RS-QM applies to a discrete area adjacent to the Te Awamutu Site (see Figure 4 below) that is within the noise control boundary for the site, which is an operative spatial layer in the plan.
- 7.7 The section 32 evaluation report that was prepared to support the notification of PC26 assesses the impact of the alternative density standards that apply to the Infrastructure Constraint Qualifying Matter overlay area and the Stormwater Constraint Qualifying Matter overlay area (both of which apply to the proposed RS-QM overlay area). As the proposed RS-QM will have the

same density standards as the Infrastructure Constraint Qualifying Matter and the Stormwater Constraint Qualifying Matter, the existing analysis in the section 32 evaluation report is appropriate and adopted for the purposes of the proposed RS-QM.

### **Section 77L of the RMA**

*Identification of the specific characteristic that makes the level of development provided by the MDRS (as specified in Schedule 3A or as provided for by policy 3) inappropriate in the area (section 77L(a)):*

- 7.8 The specific characteristic that makes the level of development provided for by the MDRS inappropriate in the context of the Te Awamutu Site is the need to manage the potential for reverse sensitivity, as I have already discussed. Earlier sections of my evidence and the evidence of Ms O'Rourke documents the reverse sensitivity issues that are faced by Fonterra and sets out why there needs to be careful management of land use conflicts.

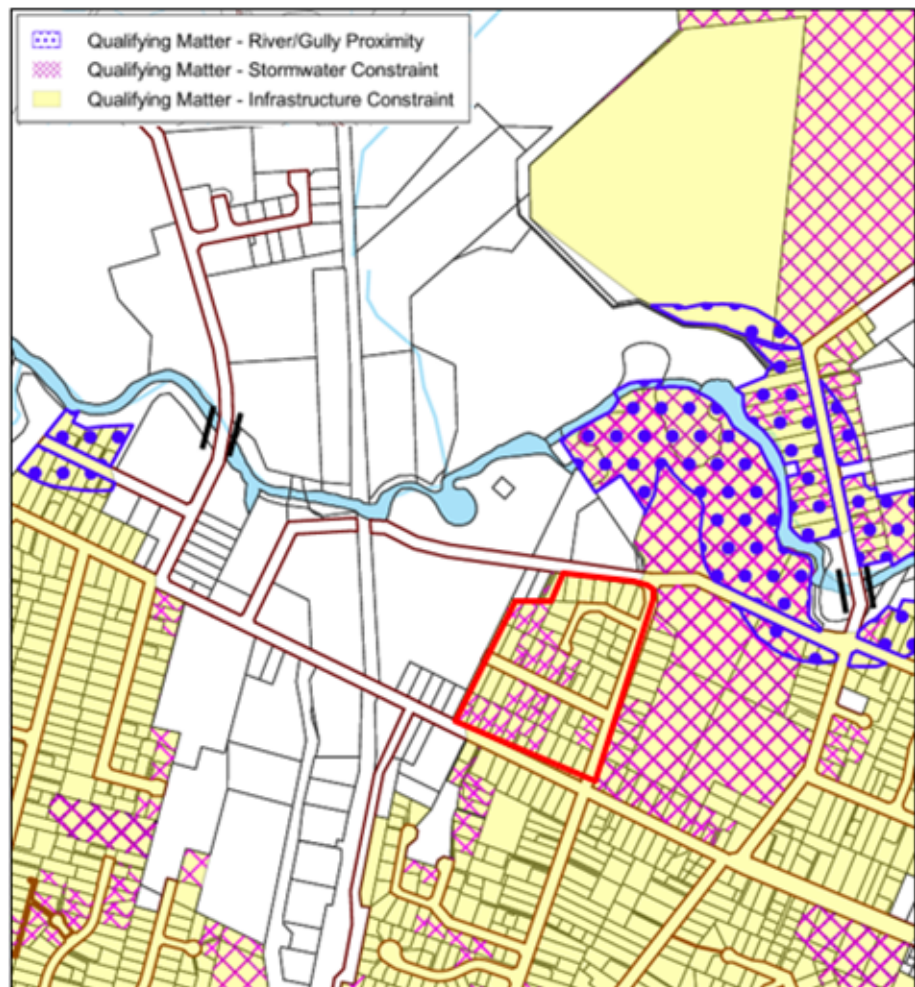
*Justifies why that characteristic makes that level of development inappropriate in light of the national significance of urban development and the objectives of the NPS-UD (section 77L(b)):*

- 7.9 As I have already discussed in this statement of evidence:
- (a) Objective 1 of the NPS-UD seeks that New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future. As I have already discussed, business land and employment are critical to enabling well-functioning urban environments and I consider that the residential intensification required by the NPS-UD must be supported by employment opportunities. Well-functioning urban environments also means that compatible activities are located close to each other while incompatible activities are separated from each other or located away from each other;
  - (b) The Te Awamutu Site is a regionally significant industrial activity;
  - (c) The Waikato RPS requires that regionally significant industry be recognised and provided for, including by minimising the potential for reverse sensitivity;

- (d) The existing policy framework of the WDP requires the protection of the ability for the Te Awamutu Site to continue to operate, grow and develop by limiting noise sensitive activities (e.g., residential activities) on surrounding sites; and
- (e) The potential for reverse sensitivity will be exacerbated if there is increased residential density around the Te Awamutu Site.

7.10 I also note that the area for which the RS-QM is proposed to be applied is already subject to an Infrastructure Qualifying Matter and / or Stormwater Constraint. The imposition of the proposed RS-QM does not in reality further limit the intensification potential, beyond that which the existing Qualifying Matters limit reduces it.

7.11 Figure 3 below shows the residentially zoned land adjacent to the Te Awamutu Site (red outline area) that is also subject to the Infrastructure Qualifying Matter and / or Stormwater Qualifying Matter.



**Figure 3: Infrastructure Qualifying Matter and Stormwater Qualifying Matter Planning Map**

- 7.12 While there are existing Qualifying Matters applying to the area that the proposed RS-QM will apply, it is appropriate to have a specific RS-QM in the event that the infrastructure and stormwater constraints are resolved in future and those two Qualifying Matters are proposed to be removed from the area. Also, the matters of discretion in respect of three or more dwellings within the RS-QM overlay area are more specific to reverse sensitivity.

*Includes a site-specific analysis that identifies the site to which the matter relates (section 77L(c)(i)):*

- 7.13 As I have already discussed, the site to which the proposed RS-QM relates is the Te Awamutu Site and the surrounding area identified in Figure 4 below.<sup>28</sup>

*Includes a site-specific analysis that evaluates the specific characteristic on a site-specific basis to determine the geographic area where intensification needs to be compatible with the specific matter (section 77L(c)(ii)):*

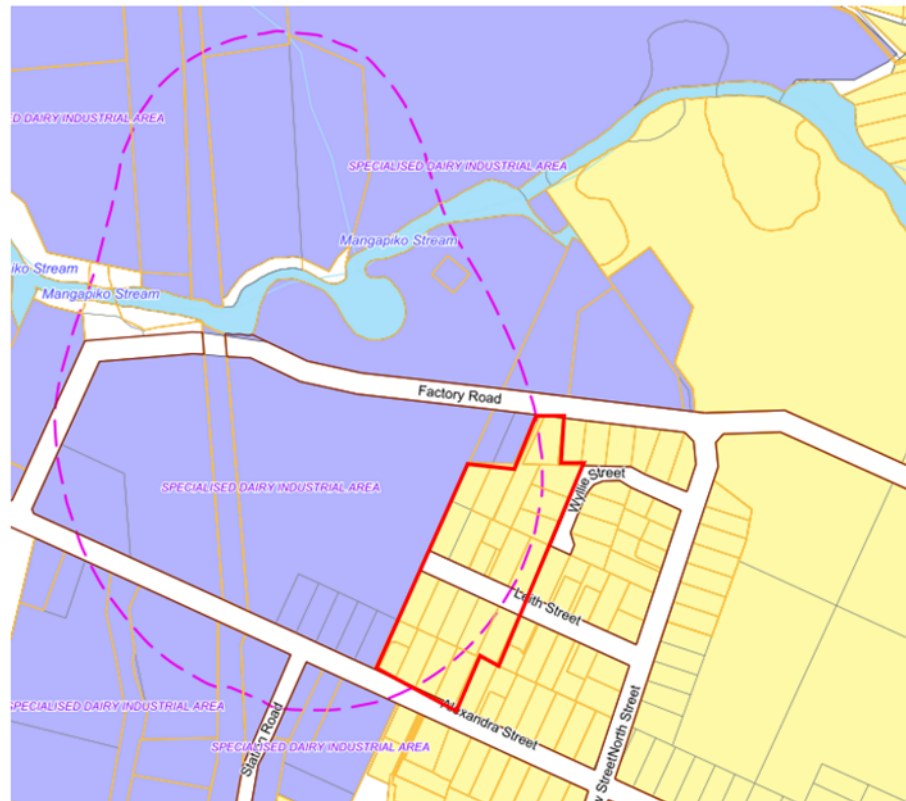
- 7.14 Fonterra has submitted that the RS-QM should apply to the noise contour boundary around the Te Awamutu Site. This noise contour is an established feature of the WDP which requires noise sensitive activities within the contour to be acoustically treated.

- 7.15 Figure 4 below shows the noise contour (magenta dashed line) and the area to which I consider the RS-QM should apply in red.

- 7.16 Those properties should be included within the RS-QM because they are within the existing noise control boundary for the Te Awamutu Site (which is an existing spatial layer in the WDP). These properties may be affected by elevated noise by the existing lawful operation of the Te Awamutu Site and are therefore a reverse sensitivity concern for Fonterra. The noise control boundary has been confirmed as being appropriate through the First Schedule process, and modelling and monitoring undertaken by acoustic experts (Marshall Day).

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<sup>28</sup> Those sites affected by the RS-QM are shown in Figure 4 below and include: 2/443 Factory Road, 190 Leith Street, 170 Leith Street, 465 Factory Road, 463 Factory Road, 96 Wyllie Street, 128 Wyllie Street, 152 Wyllie Street, 110 Leith Street, 130 Leith Street, 2/150 Leith Street and 1/150 Leith Street.



**Figure 4: Proposed Extent of the RS-QM**

*Includes a site-specific analysis that evaluates an appropriate range of options to achieve the greatest heights and densities permitted by the MDRS (as specified in Schedule 3A) or as provided for by policy 3 while managing the specific characteristics (section 77L(c)(iii)):*

- 7.17 The proposed RS-QM still provides for some intensification – two dwellings as a permitted activity rather than the three permitted by the MDRS. Fonterra is not seeking for the MDRS to not apply within the RS-QM at all. Rather, Fonterra is seeking a middle ground, which I consider to be appropriate as it enables some intensification while also minimising the potential for reverse sensitivity. As I have already discussed, this is consistent with the effect of the Infrastructure Constraint and Stormwater Constraint Qualifying Matters.
- 7.18 I do not consider that there are other options to achieve the 'greatest heights and densities permitted by the MDRS' while also avoiding or minimising the potential for reverse sensitivity effects.
- 7.19 Overall, it is my opinion, that the level of development permitted by the MDRS in the absence of the RS-QM proposed by Fonterra is incompatible with sound planning practice.

## **8. RESPONSE TO S42A REPORT**

8.1 Mr McGahan considers that reverse sensitivity is likely to be an appropriate qualifying matter, however he considers that there is insufficient information to recommend that the RS-QM be applied as no assessment of the matters of section 77L of the RMA has been provided.

8.2 This statement of evidence provides my analysis of the proposed RS-QM against the requirements of sections 77J and 77L of the RMA. Based on the analysis I have undertaken, I consider that a RS-QM is appropriate.

8.3 In respect to the other matters raised in the Fonterra submission, the author of the section 42A report considers that:

9.17.74. In relation to the second matter raised, the inclusion of criterion that reflect the reverse sensitivity is not supported as the focus of this criterion is around the design of any nonpermitted development and there are matters identified which should be taken into account in the design that would assist with any potential reverse sensitivity matters. Applying such a criterion here would have implications also beyond the specific use to which the submission relates.

8.4 I do not agree with this analysis, and for the reasons set out in my evidence, I consider that the management of reverse sensitivity is fundamentally important to residential intensification; both for the amenity of the residential activities and to protect the adjacent and nearby industrial activities. This issue is also broader than just industrial zoned land or the Te Awamutu Site specifically and should be recognised in the manner I have set out in my evidence.

## **9. SECTION 32AA**

9.1 Section 32AA of the RMA, requires that:

Requirements for undertaking and publishing further evaluations

(1) A further evaluation required under this Act—

(a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and

(b) must be undertaken in accordance with section 32(1) to (4); and

(c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and

(d) must—

(i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or

(ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.

(2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).

(3) In this section, proposal means a proposed statement, national planning standard, plan, or change for which a further evaluation must be undertaken under this Act.

9.2 In my opinion, the amendments I have proposed to PC26 are more effective and efficient than not identifying this area as such, as it will be no more restrictive of intensification than the Qualifying Matters already applying in the area where the RS-QM is proposed, but done so in a manner that gives effect to the Waikato RPS and the existing provisions in the WDP and, in so doing, not impacting the ongoing operation of the Te Awamutu Site.

## 10. CONCLUSION

10.1 I recognise the overall intent of PC26. However, I consider that additional amendments are required, as outlined in my evidence, to give effect to the Waikato RPS and to ensure consistency with the existing objectives and policies of the WDP in respect of recognising the importance of the continued operation of the Te Awamutu Site.

**Mark Chrisp**  
**6 April 2023**



## Annexure A Proposed Amendments

The following are the proposed amendments to the WDP to address the issues raised in the submission by Fonterra:

- (a) Incorporating the proposed RS-QM around the Te Awamutu Site (the required section 77J and 77L assessment is set out in the body of my brief of evidence).
- (b) Amending Policy 1.3.3.2 to ensure that reverse sensitivity is a matter considered for out of sequence and out of zone plan changes. My proposed amendments are shown below (my insertions are underlined):

Policy 1.3.3.2 – Out of sequence and out of zone plan changes

To have regard to potential plan changes that are otherwise not enabled or not in sequence with the planned release of land where that plan change would:

- (a) Contribute to a well-functioning urban environment; and
  - (b) Provide the necessary infrastructure required for the proposed development; and
  - (c) Be well connected to public transport and transport corridors; ~~and~~
  - (d) Provide significant development capacity; and
  - (e) Avoid or minimise the potential for reverse sensitivity effects on lawfully established non-residential activities.
- (c) Amending paragraph 2A.1.9 (Qualifying Matters – Introduction) as follows (my insertions underlined):

Qualifying Matters - Introduction

2A.1.9 The Medium Density Residential Standards have been modified to accommodate qualifying matters in the Waipā District in the following circumstances.

...

- (i) Where there are specific matters which make higher density inappropriate such as protected trees, character clusters, managing the potential for reverse sensitivity, and specific requirements applying within Structure Plans.

(d) Adding a new rule to Table 2A.4.1.1 (Permitted Activities) as follows (my insertions underlined):

(b) Up to three dwellings per site outside of the Infrastructure Constraint Qualifying Matter Overlay and outside of the Reverse Sensitivity Qualifying Matter Overlay.

(c) Up to two dwellings per site within the Infrastructure Constraint Qualifying Matter Overlay.

(cA) Up to two dwellings per site within the Reverse Sensitivity Qualifying Matter Overlay.

(e) Insert a new restricted discretionary activity rule in Table 2A.4.1.3 (my insertions underlined):

(cA) Three or more dwellings per site within the Reverse Sensitivity Qualifying Matter Overlay.

Discretion will be restricted to:

- Reverse sensitivity effects on the operation of the Te Awamutu Manufacturing Site; and
- Building location, bulk and design; and
- Development density; and
- Landscaping; and
- Location of parking areas and vehicle manoeuvring; and
- Traffic generation and connectivity; and
- Privacy within and between adjoining sites; and
- Noise.

(f) Making consequential amendments to Rule 2A.4.1A (Public and Limited Notification) (my insertions underlined).

(c) An application for resource consent under Rule 2A.4.1.1(cA) that does not comply with one or more of the performance standards in Rule 2A.4.2 will be considered without public notification unless there are special circumstances).

(d) An application for resource consent under Rule 2A.4.1.3(cA) that complies with the performance standards in Rule 2A.4.2 will be

considered without public or limited notification or without the need to obtain written approval unless there are special circumstances).

- (g) Include a new assessment criterion (21.1.2A.5) for assessing the construction of more than two dwellings per site within the Infrastructure Constraint Qualifying Matter or more than three dwellings per site outside the Infrastructure Constraint Qualifying Matter), as follows (my insertions underlined):

(u) The extent to which the residential development includes measures to avoid or minimise the potential for reverse sensitivity effects on lawfully existing non-residential activities.

- (h) Add a new assessment criteria for applications for more than two dwellings per site within the RS-QM as follows (my insertions underlined):

More than two dwellings per site within the Reverse Sensitivity Qualifying Matter Overlay

- (a) The extent of adverse effects including reverse sensitivity effects on the Te Awamutu Dairy Factory;
- (b) The extent of acoustic treatment required to minimise the potential for noise related reverse sensitivity effects on the Te Awamutu Dairy Factory.
- (c) Amenity values, including design features that promote privacy and neighbourhood coherence – such as yards, height, fencing and screening, separation and orientation of dwellings to obstruct sight lines between living areas.
- (d) The extent to which adequate vehicle parking and the provision of safe vehicle entrances for both pedestrians and vehicles, car parking and manoeuvring and vehicle access to rubbish and recycling compounds, and access for emergency vehicles has been provided.
- (e) The extent of adverse effects on the surrounding road network, including on the function of intersections.
- (f) The adequacy of the servicing proposed for the development.
- (g) The adequacy of the site to accommodate the proposed density of development.
- (h) The provision of lighting for amenity and crime prevention, without being a nuisance to residents.

- (i) The provision of connections to public walkways/cycleways and the road network.
- (j) Open space character including on-site landscaping, retention of mature trees, provision of shared driveways.
- (k) Outdoor living spaces that do not overlook or face the Te Awamutu Dairy Factory.
- (l) The location of outdoor storage areas and rubbish and recycling compounds so that the appearance from the street is not adversely affected and on-site amenity, such as the provision of outdoor living spaces is not compromised.