

From: Ben Williams <Ben.Williams@chapmantripp.com>

Sent: Monday, August 26, 2024 1:07 PM

To: PDP <pdp@timdc.govt.nz>

Subject: FW: Timaru Proposed District Plan - Hearing B - Minute 14 - Panel request for clarification from s42A

authors and information requests made to submitters

Hi there,

Following Minute 14, Fonterra has provided a copy of the 'DIN resource' consent to the relevant officers but on a belts n' braces basis we thought we should also send it through to the relevant pdp address.

Apologies if you have (most likely) now received this twice.

Kind regards,

Ben Williams
Partner

Chapman Tripp



LEGAL ADMINISTRATOR:



www.chapmantripp.com

14 March 2022

Planz Consultants Limited

PO Box 1845

Christchurch 8140

Email: carmen@planzconsultants.co.nz

Dear Carmen Taylor,

Land Use Consent No. 102.2022.15.1

Construct and Operate a Dissolved Inorganic Nitrogen Plant

6 Rolleston Road, RD 26, Temuka

I advise that land use applications (102.2022.15.1) was granted consent subject to conditions under delegated authority by Timaru District Council on 14 March 2022. Please find attached the decision on the application and the approved plan.

If you have any queries on this matter, please do not hesitate to contact me at the details listed below.

Yours faithfully,



Alex Wakefield

Team Leader Consents and Compliance

Email: alex.wakefield@timdc.govt.nz

Phone: 03 687 7594



Decision of Timaru District Council

Land Use Consent No. 102.2022.15.1

Acting under the delegated authority from Timaru District Council, I have considered the subject application for subdivision consent and have decided, pursuant to sections 104 and 104B, of the Resource Management Act 1991, that consent is granted subject to the following conditions imposed in accordance with section 108 of the Act:

General

1. The development shall proceed in accordance with the application as submitted, prepared by Fonterra including:

- 'DIN Tanks – Tank Layout', dated 8/10/21, Rev B
- 'DIN Tanks – Landscaping Drawing', dated 29/09/21, Rev A

These plans are the Council approved plans, date stamped 14 March 2022.

2. The landscaping identified on 'Landscape Drawing' and certified under Condition 1 above shall be implemented within the first planting season after construction is completed and thereafter be maintained and irrigated. If any tree or plant shall die or become diseased it shall be replaced within 12 months. The landscaping strip shall have the following specifications:

- It shall measure a minimum of 5m by 56m
- It shall be inter-planted with the following trees, native grasses and shrubs:
 - Trees - Hoheria sexstylosa and/ or Hoheria angustifolia.
 - Grasses and shrubs - Phormium tenax, Poa cita, Carex secta Hebe albicans, Hebe salicifolia and/or Hebe stricta.

Alex Wakefield

Team Leader: Consents and Compliance

Date: 14 March 2022

SUMMARY OF DECISIONS

1. Pursuant to sections 95A-95F of the Resource Management Act 1991 (**RMA**) the application will be processed on a **non-notified** basis given the findings of Section 5 of the section 95A and 95B report. This decision is made by Alex Wakefield, Team Leader Consents and Compliance, on 14 March 2022 under delegated authority pursuant to Section 34A of the RMA.
2. Pursuant to section 104 of the RMA, consent is **GRANTED SUBJECT TO CONDITIONS** outlined in **Appendix 1** of the section 104 decision imposed pursuant to section 108 of the RMA. This consent can only be implemented if the conditions in Appendix 1 are complied with by the consent holder. The decision to grant consent was considered (including the full and complete records available in Council's electronic file and responses to any queries) by Alex Wakefield, Team Leader Consents and Compliance under delegated authority pursuant to Section 34A of the RMA.



Alex Wakefield

Team Leader Consents and Compliance

Date: 14 March 2022

GENERAL ADVICE NOTES

Commencement

This resource consent commences on the date the decision was notified, or on such later date as stated in the consent, unless an appeal or an objection has been lodged, at which time the consent commences when this has been decided or withdrawn, or in the case of an appeal to the Environment Court on such later date as the Court may state in its decision.

Right of Objection

If you do not agree with any of the conditions of this consent, you have a right to object to the condition under section 357A of the Resource Management Act. Notice of any objection must be in writing, set out the reasons for the objection, and be lodged with the Timaru District Council within 15 working days of receipt of this decision.

You may, when making an objection, under section 357A(1)(f) or (g), request that the objection be considered by a hearings commissioner(s), who is not a member of the consent authority.

Subsequent Right of Appeal to the Environment Court

Any person who has made an objection under section 357A of the RMA may appeal to the Environment Court against the decision on the objection pursuant to section 358 of the RMA.

Notice of such an appeal must be in the prescribed form, state the reasons for the appeal and be lodged with the Environment Court (PO Box 2069, Christchurch 8013) within 15 working days after the decision on the objection being notified to that person, or within such further time as the Environment Court may allow.

Appeal Direct to the Environment Court

If you do not agree with the decision, an alternative to a section 357A objection, or if section 357A does not apply, is to appeal the decision under section 120 of the RMA to the Environment Court.

However, there is no right of appeal under this section against the whole or any part of a decision of a consent authority to the extent that the decision relates to 1 or more of the following, but no other, activities:

- (a) a boundary activity, unless the boundary activity is a non-complying activity:
- (b) a subdivision, unless the subdivision is a non-complying activity:
- (c) a residential activity as defined in section 95A(6), unless the residential activity is a non-complying activity.

A person who made a submission on the application or review of consent conditions may appeal only in respect of a matter raised in the person's submission (excluding any part of the submission that is struck out under section 41D).

The notice of appeal shall be in the prescribed form; state the reason for the appeal and the relief sought; state any matters required by the regulations; and be lodged with the Environment Court (PO Box 2069, Christchurch 8013) within 15 working days notice of the decision being received. Notice of the appeal must also be served on Timaru District Council within 15 working days within the same period. Notice of the appeal must also be served on any person who made a submission in relation to the application within 5 working days of the notice being lodged with

the Environment Court. If you are in any doubt about the correct procedures, you should seek legal advice.

Minor Correction of Resource Consents

Section 133A of the RMA provides the consent authority may at its discretion issue an amended consent that corrects minor mistakes or defects in the consent within 20 working days of the grant. If you consider that the consent contains a minor mistake or defect you may advise the Timaru District Council of the same.

Lapsing of Consents

A resource consent lapses on the date specified in the consent or, if no date is specified, 5 years after the date of commencement of the consent unless, before the consent lapses: the consent is given effect to; or, an application is made to the consent authority to extend the period after which the consent lapses, and the consent authority decides to grant an extension.

Change or Cancellation of Conditions

An application to change or cancel a condition of this consent can be made under section 127 of the RMA.

Review of Consent

A consent authority may, in accordance with section 129 of the RMA, serve notice on a consent holder of its intention to review the conditions of a resource consent.

Monitoring of Consent

Pursuant to section 35 of the RMA, the local authority shall monitor the exercise of this resource consent. Should all the conditions of consent be complied with, a single monitoring visit will occur and therefore no further monitoring charges will be incurred. However, should conditions of consent not be met, further monitoring will be required which will generate additional costs as outlined above. Please note that some consents will require periodic or on-going monitoring and therefore despite compliance, monitoring will occur and costs will be charged for that monitoring.

Charges

Charges, set in accordance with section 36 of the RMA, shall be paid to the Timaru District Council for the carrying out of its functions in relation to the administration and monitoring of resource consents and for carrying out its functions under section 35 of the RMA.

Other Consents May Be Required

This resource consent authorises the Land Use or Subdivision applied for only. The consent does not give the consent holder the right to:

- Use, subdivide or develop land that contravenes a rule in the District Plan other than that which has been consented to by way of the subject application, or that which has already been legally established.
- Conduct any activity that requires resource consent from Environment Canterbury (ECan). You are advised to contact ECan to ascertain if consent is required for the proposed development.
- Authorise building or utility services construction work that requires separate consent/approval.

**DECISIONS OF TIMARU DISTRICT COUNCIL
NOTIFICATION UNDER s95A and 95B and DETERMINATION under s104
OF THE RESOURCE MANAGEMENT ACT 1991**

Consent No:	102.2022.15.1
Applicant:	Fonterra Limited
Application:	Application under section 88 of the Resource Management Act 1991 (RMA) for landscaping non-compliances as part of the Clandeboye Milk Processing Site's wastewater treatment plant.
Location:	6 Rolleston Road, RD26, Clandeboye
Legal Description:	Lot 3 Deposited Plan 75226 held in Record of Title CB43B/752 and Lot 1 Deposited Plan 81114, Lot 2 Deposited Plan 73281, Section 1 Survey Office Plan 19658 and Section 1 Survey Office Plan 20203 held in Record of Title CB48B/18
Operative District Plan Zoning:	Industrial H
Draft District Plan Zoning:	General Industrial Zone Flood Assessment Area Liquefaction Area Significant Hazard Facility – SHF-20 Site and Area Significant to Māori – SASM-5 Height Specific Control Area
Activity Status:	Discretionary Activity
Decision Date:	14 March 2022

1. Summary of Proposal and Site Description

Consent is sought for non-compliances with landscaping and boundary fencing associated with the installation of facilities to treat wastewater.

The wastewater is treated within the site's wastewater treatment plant (WWTP), which is located in the north-eastern corner of the site, prior to being discharged to the sea via an ocean outfall. Given the nature of the site's wastewater and the nature of the site's WWTP, Fonterra have not always been able to comply with the monthly median limits for dissolved inorganic nitrogen (DIN). The new facilities are proposed to reduce DIN levels in the treated wastewater (to comply with the nutrient discharge limits of ECan Consent No. CRC156573) prior to discharge via the ocean outfall.

The key components of the DIN Plant include two mild steel and powder coated tanks (approximate dimensions of 21m in diameter and no more than 10m in height). The tanks, given the powder coating, will be the same colour as other tanks present at the Clandeboye site. The project also entails establishing fencing around the plant, installation of new pumps and maintenance lighting, various pipeline and service connections, as well as replacement of a landscape strip between the plant and Donehue Road.

There is no increase in truck movements into and out of the site associated with the operation of the DIN Plant. There will also be no increase in staff numbers as existing staff will be assigned responsibility for the proposed facility as part of current responsibilities (i.e., the DIN Plant forms part of the site's WWTP operations).

For clarity, it is noted that the erection of the proposed tanks, structures and industrial activity is permitted in the Industrial H Zone under Rules 1.1 and 1.12 where the activity meets the performance standard for the zone and is not listed as a controlled, discretionary, or non-complying activity.

The applicant has provided a description of the proposal, the site and locality in Sections 1 to 3 of the report entitled "*Land Use Application to the Timaru District Council*", prepared by Carmen Taylor of Planz Consultants, and submitted as part of the application. This description is considered adequate and is adopted for the purpose of this report.

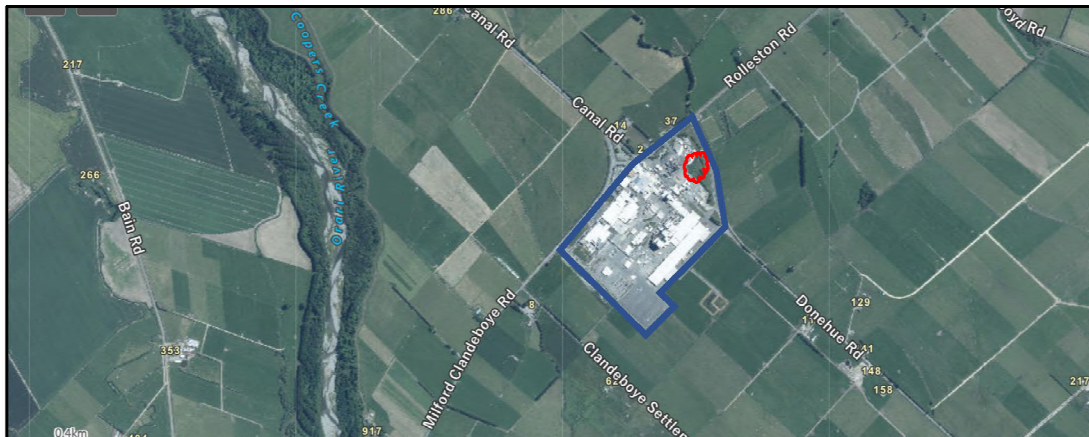


Figure 1: Fonterra site outlined in context of surrounding environment; approximate location of new tanks outlined red



Figure 2: Approximation of location of new facility in site context

2. Planning Framework

2.1 Operative Timaru District Plan

The subject site is zoned Industrial H by the Timaru District Plan, and the proposed activity requires resource consent for the following reasons:

- A **discretionary** activity resource consent pursuant to Part D4 – Industrial Zones, Rule 3.1 as the proposed landscaping does not comply with Performance Standards 5.4 in relation to the provision of a landscape strip and screen fencing.

2.3 National Environmental Standards for Assessing and Managing Contaminants in Soil to protect Human Health ('NES')

Based on the Detailed Site Investigation prepared by Beca Limited, dated 7 December 2021 and submitted as Appendix 3 of the Application, the piece of land to which this application relates is not a HAIL site, and therefore the NES does not apply.

2.4 Activity Status Determination

Overall, the application is being considered and processed as a **discretionary** activity.

3. Notification Determination under Section 95A of the Resource Management Act

Section 95A – Public Notification

Section 95A of the RMA requires a decision on whether or not to publicly notify an application. The following steps set out in this section, in the order given, are used to determine whether to publicly notify an application for a resource consent.

3.1 Step 1 – Mandatory public notification

The applicant has not requested public notification of the application (s95A(3)(a)).

Public Notification is not required as a result of a refusal by the applicant to provide further information or refusal of the commissioning of a report under section 92(2)(b) of the RMA (s95A(3)(b)).

The application does not involve exchange to recreation reserve land under section 15AA of the Reserves Act 1977 (s95A(3)(c)).

Therefore, public notification is not required by Step 1.

3.2 Step 2 – Public notification precluded

Public notification is not precluded by any rule or national environmental standard (s95A(5)(a)).

The proposal is not:

- a controlled activity; or
- a boundary activity as defined by section 87AAB that is restricted discretionary, discretionary or non-complying.

Therefore, public notification is not precluded (s95A(5)(b)).

3.3 Step 3 – If not precluded by Step 2, public notification is required in certain circumstances

Public notification is not specifically required under a rule or national environmental standard (s95A(8)(a)).

A consent authority must publicly notify an application if notification is not precluded by Step 2 and the consent authority decides, in accordance with s95D, that the proposed activity will have or is likely to have adverse effects on the environment that are more than minor (s95A(8)(b)).

An assessment in this respect is therefore undertaken, and decision made in Sections 3.3.1 - 3.3.4 below:

3.3.1 Effects that must / may be disregarded (s95D(a)-(e))

Effects that must be disregarded:

- Effects on the owners or occupiers of land on which the activity will occur and on adjacent land (s95D(a)).
- Trade competition and the effects of trade competition (s95D(d)).

Effects that may be disregarded:

- An adverse effect of the activity if a rule or national environmental standard permits an activity with that effect (s95D(b)) – referred to as the “permitted baseline”. The relevance of a permitted baseline to this application is provided in Section 3.3.2 below.

3.3.2 Permitted Baseline (s95D(b))

The consent authority may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect. All industrial activities and ancillary buildings are permitted in this zone subject to compliance with the performance standards and general rules. In this case, the proposal would be permitted if the landscaping and fencing along the boundary with Donehue Road were implemented in accordance with the requirements.

The permitted baseline is therefore of relevance to this application, and only the non-compliances with the landscaping and fencing requirements will be considered in the following assessment.

3.3.3 Existing and Receiving Environment

The Fonterra plant occupies an area of approximately 35 hectares. A dairy facility has been operating on the site for decades, with the first resource consent dating back to 1981. The site and plant have evolved and developed as a major dairy manufacturing site up to the current time. The site currently processes around 13 million litres of milk per day, produces more than 400,000 tonnes of milk powder, cream, cheese and protein products every year and employs around 825 people.

The land surrounding the site to the north, south and west is zoned Rural 1 Rural 2 (high quality land) in the District Plan, while the land to the east is zoned Industrial H. The Industrial H lands to the east of the site remain undeveloped at this time. Accordingly, the area around the site is sparsely populated, consistent with its rural character and zoning. This rural land predominantly consists of private landholdings used for pastoral activities, with the area's vegetation characterised by pastoral grasses and shelterbelts that delineate farm paddocks.

3.3.4 Assessment of Effects on the Environment

Taking into account Sections 3.3.1, 3.3.2 and 3.3.3 above, the following assessment determines whether the proposed activity will have, or is likely to have, adverse effects on the environment that are more than minor that will require public notification (s95A(8)(b)).

The Assessment of Effects provided at Section 6 of the applicant's AEE, in addition to the further information received via email on 8 March 2022 with respect to landscaping, is comprehensive and is considered adequate. It is therefore adopted for the purposes of this report.

The following additional assessment is made with respect to the appropriateness of the landscaping and fencing in the context of the site and surrounding environment:

The proposed new tanks, with dimensions of approximately 21m in diameter and up to 10m in height, will be powder coated mild steel, and painted a dark green colour, consistent with some of the site's other tanks and structures. The tanks will be set back approximately 30m from Donehue Road. The applicant has advised that the size of the tanks, as shown on the photomontage, provided in Appendix 2 of the AEE, are to scale.

The site does not have a 1.5m wide landscape strip along its entire road boundary, supplemented by a 2m high screen fence on the edge furthest from the road, as required by the District Plan. There are however clusters of landscaping set at various intervals back from the

road along the length of the Donehue Road boundary. These strips of landscaping are various sizes and at different stages of maturity.

The proposal includes the removal of one of the established landscape strips between the site and Donehue Road. It is proposed to replace this landscaping with a new landscape strip measuring 5m by 56m. Although not forming a straight line around the property boundary, it will be inter-planted with trees, native grasses and shrubs similar to those that have been planted over recent years in a number of new landscape strips established around the Clandeboye site following development activities.

The species to be planted in the proposed landscape strip will consist of some, or all, of the following:

- Trees - *Hoheria sexstylosa* and/ or *Hoheria angustifolia*.
- Grasses and shrubs - *Phormium tenax*, *Poa cita*, *Carex secta* *Hebe albicans*, *Hebe salicifolia* and/or *Hebe stricta*.

No bunding is proposed, as originally mentioned in the application, so there will be no landscape bunding created as part of this proposal. This is consistent with the current roadside landscape treatment, with no bunding present.

Two existing fences are located around the Clandeboye site, a roadside wire fence and a site security fence. The relocated site security fence will be identical to that which already exists at the site. The applicant proposes to retain its existing roadside wire fence, and the site security fence (although relocated around the DIN Plant).

There is a high quality of existing landscaping on-site, commensurate with the scale of the Clandeboye facility. The replacement landscape strip will contribute to creating an attractive boundary treatment along the site, a pleasant foreground to the buildings and structures on-site, and a transition between the industrial uses and the adjacent rural uses in the wider area.

For these reasons, there is not considered to be a need for any other additional landscaping on the site beyond that which is proposed. Overall, the adverse effects of the proposal are considered to be less than minor.

3.3.4 Decision: Effects On The Environment (s95A(8))

On the basis of the above assessment, it is assessed that the proposed activity will not or is not likely to have adverse effects on the environment that are more than minor. Therefore, public notification is not required under Step 3.

3.4 Step 4 – Public Notification in Special Circumstances

There are no special circumstances in relation to this application.

4. Notification consideration under Section 95B of the Resource Management Act

Section 95B – Limited Notification

Section 95B(1) requires a decision on whether there are any affected persons (under s95E). The following steps set out in this section, in the order given, are used to determine whether to give

limited notification of an application for a resource consent, if the application is not publicly notified under section 95A.

4.1 Step 1: certain affected groups and affected persons must be notified

Determination under s95B(2)

The proposal does not affect protected customary rights groups, and does not affect a customary marine title group; therefore limited notification is not required.

Determination under s95B(3)

Limited notification is not required under Step 1 as the proposal is not on or adjacent to, or may affect land subject to a statutory acknowledgement under Schedule 11, and the person to whom the statutory acknowledgement is made is not determined an affected person under section 95E (s95B(3)).

4.2 Step 2: if not required by Step 1, limited notification precluded in certain circumstances

Limited notification is not precluded under Step 2 as the proposal is not subject to a rule in the District Plan or is not subject to a NES that precludes notification (s95B(6)(a)).

Limited notification is not precluded under Step 2 as the proposal is not a controlled activity land use (s95B(6)(b)).

4.3 Step 3: if not precluded by Step 2, certain other affected persons must be notified

If limited notification is not precluded by Step 2, a consent authority must determine, in accordance with section 95E, whether the following are affected persons:

Boundary activity

The proposal is not a boundary activity where the owner of an infringed boundary has not provided their approval.

Any other activity

The proposal is not a boundary activity and therefore the proposed activity falls into the 'any other activity' category (s95B(8)), and the adverse effects of the proposed activity are to be assessed in accordance with section 95E.

4.3.1 [i] Considerations in assessing adverse effects on Persons (S95E(2)(a)-(c))

- a) The consent authority **may** disregard an adverse effect of the activity on a person if a rule or national environmental standard permits an activity with that effect (a "permitted baseline"). Section 3.3.2 above sets out the relevance of the permitted baseline to this application.
- b) The consent authority **must** disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and

- c) The consent authority **must** have regard to every relevant statutory acknowledgement specified in Schedule 11.

4.3.1 [ii] Persons who have provided written approval (s95E(3))

No persons have provided written approval for the application.

4.3.2 Assessment: Effects on Persons

Taking into account the exclusions in sections 95E(2) and (3), the following outlines an assessment as to whether the activity will have or is likely to have adverse effects on persons that are minor or more than minor.

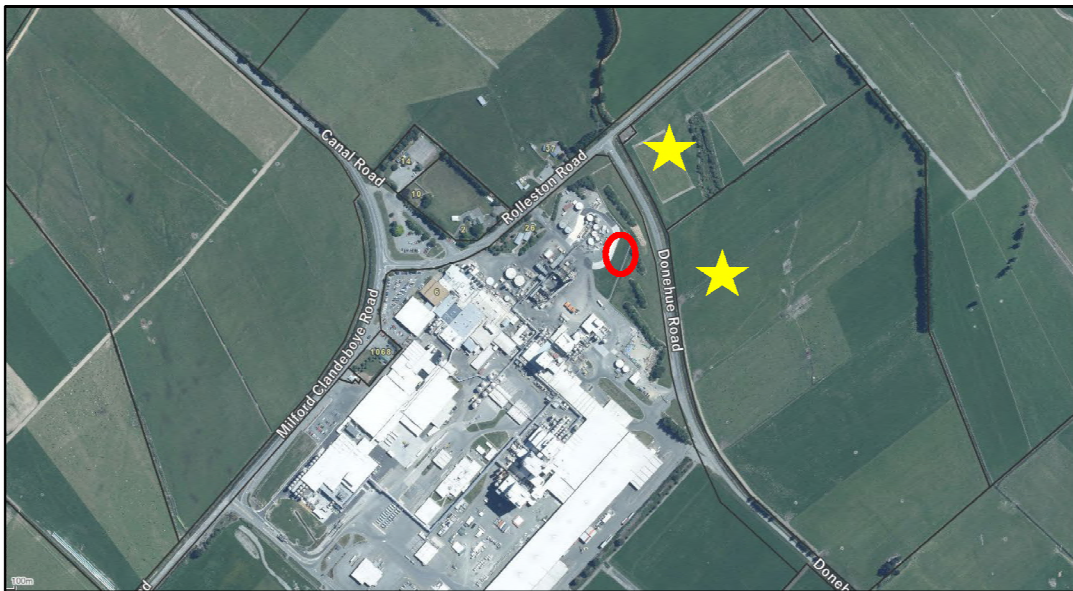


Figure 3: Properties adjacent to the proposed works indicated by yellow stars; location of tanks outlined red

The properties to the east are currently used for rural productive activities, however, they are zoned Industrial. The proposed tanks are not considered visually dominant or obtrusive when viewed from the properties located on the eastern side of Donehue Road.

The proposed development, including the landscaping and fencing, is consistent with the established buildings and activities in the Clandeboy site. Any adverse effects on these owners and occupiers are therefore considered to be less than minor.

4.3.3 Decision: Effects on Persons (s95E(1))

In terms of section 95E of the RMA, and on the basis of the above assessment, no person is considered to be adversely affected. Therefore, limited notification is not required under Step 3.

4.4 Step 4 – Further Notification in Special Circumstances (s95B(10))

Special circumstances do not apply that require limited notification.

5. Notification Recommendation

For the reasons set out in Sections 3 and 4 of this notification decision report, under s95A and s95B of the RMA, the application is to be processed on a non-notified basis.

Prepared by



Gemma Conlon
CONSULTANT PLANNER

6. Section 104 Requirements

This application must be considered in terms of section 104 RMA.

When considering a resource consent application and any submissions, section 104 of the RMA provides that the consent authority, must, subject to Part 2, have regard to the following:

- any actual and potential effects on the environment of allowing the activity;
- any relevant provisions of:
 - a national environmental standard:
 - other regulations:
 - a national policy statement:
 - a New Zealand coastal policy statement:
 - a regional policy statement or proposed regional policy statement:
 - a plan or proposed plan;
- any positive effects;
- any other matter it considers relevant and reasonably necessary to determine the application.

6.1 Effects on the Environment (s104(1)(a)&(ab))

Actual and potential effects on the environment have been outlined in the section 95 report. Conditions of consent can be imposed under section 108 of the RMA as required to avoid, remedy or mitigate adverse effects (s104)(1)(a)).

6.2 Relevant District Plan Provisions (s104(1)(b)(vi))

Operative District Plan

The relevant operative objectives and policies are contained within Part B11 – Amenity Values and Part D4 – Industrial Zones. The assessment provided at Section 7.2 of the applicant's AEE is considered accurate and adopted for the purposes of this report.

Overall, it is considered that the proposal is in accordance with the relevant objectives and policies of the Operative District Plan.

6.3 PART 2 OF THE RMA

The purpose of the RMA is to promote the sustainable management of natural and physical resources.

This proposal does not affect the sustainable potential of resources to meet the foreseeable needs of future generations (s5(a)), it does not affect the life-supporting capacity of air, water, soil or ecosystems (s5(b)) and as assessed does not have significant adverse effects on the environment (s5(c)).

Section 6 of the RMA sets out the matters of national importance which must be recognised and provided for, none of which are relevant to this application.

Section 7 sets out other matters that must be had particular regard to. Of relevance are the maintenance and enhancement of amenity values (s7(c)) and of the quality of the environment

(s7(f)). The additions to the existing facility are considered appropriate and are to be expected within an Industrial Zone. Further, the landscaping proposed actively assists with the amenity values of the site. Therefore, the proposal is consistent with Section 7 of the RMA.

Section 8 requires that the principles of the Treaty of Waitangi are taken into account. This proposal is consistent with the treaty principles.

Overall, the proposal is considered to meet the purpose and principles of the RMA.

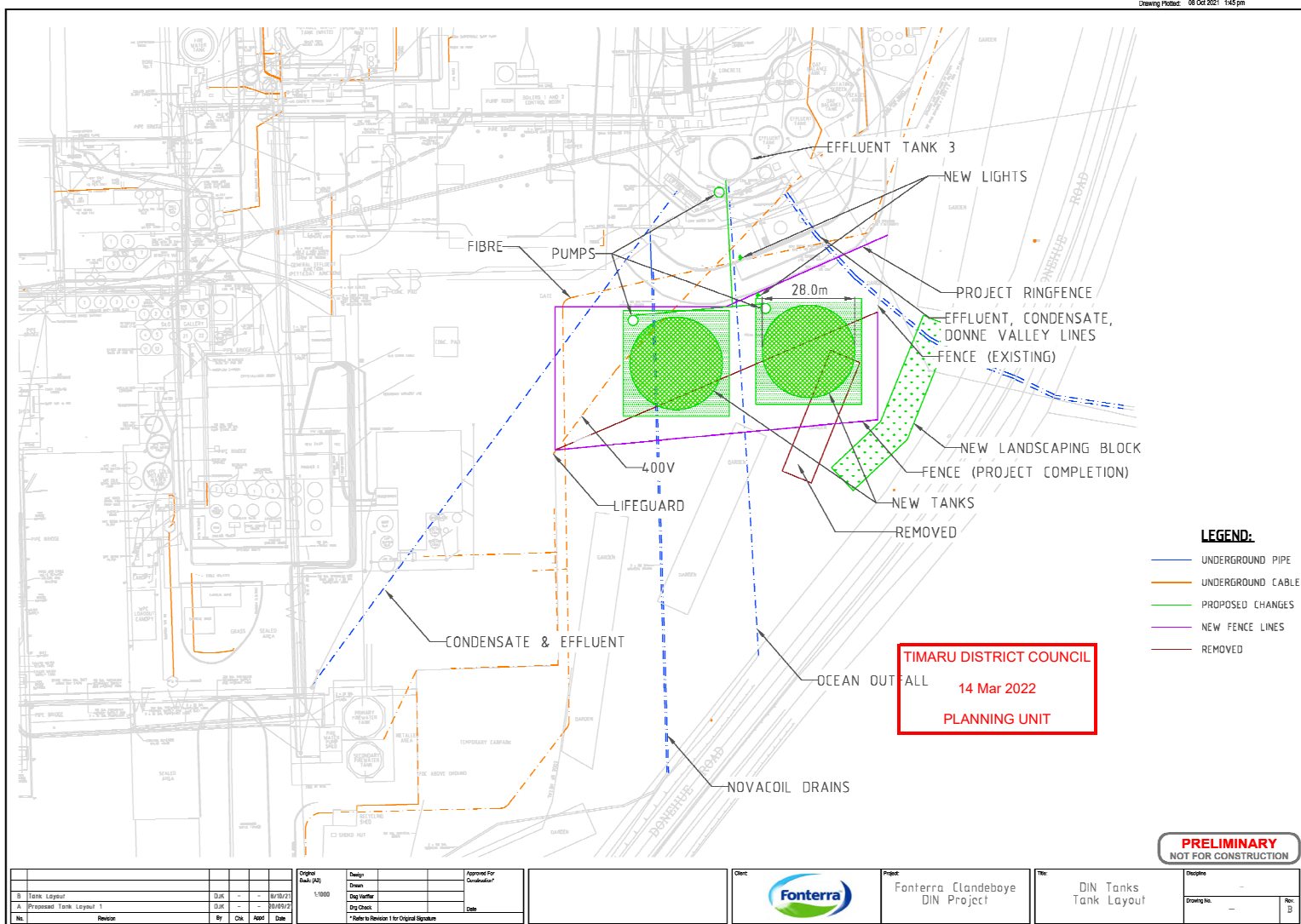
7. Decision of Resource consent Pursuant to Section 104 of the RMA

Consent is **granted** for landscaping non-compliances as part of the Clandeboye Milk Processing Site's wastewater treatment plant subject to the conditions outlined in Appendix 1 of this decision report imposed pursuant to Section 108 of the RMA.

Prepared by



Gemma Conlon
CONSULTANT PLANNER



DO NOT SCALE FOR SET OUT DIMENSIONS