

BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER Proposed Plan Change 14 to the Waipa District Plan

LEGAL AND OPENING SUBMISSIONS OF COUNSEL FOR THE HENMAR TRUST

Dated: 5 March 2025

Counsel for the Submitter:

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Submitter Introduction

1. The Henmar Trust is a conditional supporting submitter and is the owner of land adjacent to the western boundary of the northern part of the PC 14 land, and owner of land adjoining (across Zig Zag Road) the northern boundary of the PC 14 land.
2. The Henmar Trust has interests in the outcomes of the PC 14 proposal in relation to the land to the northwest of the PC 14 land that will probably remain indefinitely within the Rural Zone, and the land to the west of the PC 14 land that is within the C10 Growth Cell that is also within a Rural Zone and used as part of a working dairy unit. The considerations are different for each of those land areas.
3. A map showing the locations of the two Henmar Trust land areas is attached as Appendix A.

Issues relating to the potential effects of PC 14 rezoning on the Henmar Trust's land within C10 Growth Cell

Connectivity of roading and services from Bardowie Precinct to the southern boundary of the Henmar Trust C10 Growth Cell land

4. The proposed amendments to the Bardowie Structure Plan, as a part of this PC 14 process, include the rezoning of the Kiwifruit Block to the south of the Fonterra land and changes to the roading arrangements within the Bardowie precinct to the south of the Henmar Trust land. The second of those initiatives in PC 14 runs counter to an agreement that the Council and Bardowie entered into during the Plan Change 11 hearing and counter to the current provisions of the Bardowie Precinct Structure Plan that resulted from that agreement.
5. The Henmar Trust has had to work hard to protect its interests in its C10 Growth Cell land during the preceding rezoning of the Bardowie precinct and creation of the Bardowie Industrial Precinct Structure Plan. Mrs Mary Bourke's evidence sets out the sequence of events that occurred during the hearing of the private plan change for the Bardowie precinct (Plan Change 11).

6. The Council supported and ultimately BIL accepted the need for provision of a roading connection and services to the southern boundary of the Henmar Trust land when development of the Bardowie precinct occurs. The Henmar Trust conceded on other submission points in order to gain that crucial connectivity, not purely for its own benefit, but for the purpose of good planning and urban design outcomes.
7. The requirement for extension of the Collector Road in the Bardowie precinct to meet the southern boundary of the Henmar Trust property was clearly for the purpose of achieving good connectivity within Growth Cell C10, consistent with the District Plan Objectives and Policies in section 15 – **Infrastructure, Hazards, Development and Subdivision**. Objective 15.3.2 and 15.3.3, together with the related policies 15.3.2.5, 15.3.3.1, 15.3.3.4 and 15.3.3.5 form a coherent and logical series of policy provisions intended to produce efficient urban infrastructure, particularly connectivity to adjacent land. Copies of those policy provisions are attached as Appendix B.
8. Policy 15.3.3.1(i), 15.3.3.4 and 15.3.3.5 are all particularly directive in relation to the provision of connectivity to adjacent land identified as Deferred Zones or future growth areas.
9. In the PC 11 process, the Henmar Trust secured the future delivery of a Collector Road and associated urban infrastructure to its southern boundary, an outcome that the Council supported, in the knowledge that it would contribute to funding of Collector Road construction.
10. The current proposal, as explained by Mr Skilton for the Council, is that the Collector Road status is to end at the proposed relocated roundabout in the Bardowie land and any further connection towards to the Henmar land is to be “indicative” and have a local road status. As a consequence of those changes, the previously secured certainty of connectivity of that road and services to the Henmar land would be removed. That outcome would remove the single and most important benefit that the Henmar Trust secured through the PC 11 agreement with the Council and BIL.
11. The motivation for that change to the Bardowie Structure Plan is unknown to the Henmar Trust, but comments on the Henmar Trust’s submission for reinstatement of the PC 11 outcomes in that locality are contained in the s42A report for PC 14 in the following places:

- a) At paragraphs 4.6.6 and 4.12.2 of the s42A report the requested connection of roads and services to the Henmar Trust land is said to be “unnecessary” without further explanation. With respect, requiring such connections is generally Council's current policy and practice, is good planning and infrastructure practice, and is in accordance with the agreement that the Council reached with the Henmar Trust in the PC 11 process.

- b) At paragraph 4.13.9 explanations are given for the Council officer's recommendation to decline the request for connection of roading and services for the Henmar Trust land. First, the explanation is that the road's need and location of the road will largely depend on the future use of “this land” (not clear if that means the Henmar Trust land or the Bardowie land) as and when it is developed. Agreement has been reached and previously implemented that this would be a Collector Road, to provide the primary connection of the Henmar Trust land to the Bardowie precinct land and ensure connectivity between those precincts at that location. The road was made a Collector Road under the PC 11 process to provide exactly that certainty. No sound reason has been given for now backtracking on that agreed arrangement.

Second, the status of the requested Collector Road is said to be logically a local road, based on the District Plan definition of “Collector Road” (*a road that distributes traffic from local roads to arterial roads*). The proposed road connecting the two precincts is part of a logical “ring road, through the C10 Growth Cell, linking the western precincts to Victoria Road. Local roads would run off that Collector Road to service the various parts of each precinct and connect the Growth Cell overall.

12. Again, the status as Collector Road through the PC 11 process was intended to provide certainty of connectivity within the Growth Cell and between separately owned precincts. That meant both certainty of transportation connections and certainty of provision of services. Those certainties would come from the Collector Road status, but would not necessarily from an indicative local road status.

Connectivity with the Mangaone Precinct

13. The s42A report provides reasons in paragraph 4.13.10 for the recommendation that the requested connection to the Mangaone Precinct Structure Plan Area should be rejected. The first reason given is that there are opportunities for access available to the Henmar Trust land at Zig Zag Road and the connection through to the Bardowie Industrial Precinct Structure Plan Area. Regardless of the opportunities that exist at Zig Zag Road, and that may exist from the Bardowie land, it is good planning practice and beneficial for road users to have connected internal roads within the C10 Growth Cell, as set out in the objectives and policies that are referred to above. Creation of a series of unconnected industrial precincts that are reliant on the external roading network for any interconnection would be clearly in conflict with those objectives and policies concerning roading efficiency and connectivity.
14. That approach would also result in inefficient provision of other infrastructure services around the external road network rather than by the most direct connection opportunities within the Growth Cell. Segregation of precincts and reliance on the external roading and services seems to be exactly what the objectives and policies are intended to avoid.
15. The second reason given for rejecting the requested connection is that such a connection could result in “backtracking to get onto Zig Zag Road”. With respect, the Henmar Trust would expect a requirement for development of its C10 Growth Cell land to include connection to Zig Zag Road regardless of whether there is a connection to the Mangaone precinct. There would be no expectation of “backtracking” to access Zig Zag Road if both the Mangaone precinct and the Henmar Trust land provide some connection to that road in addition to having a linked up internal road and services network.
16. Even if the council decides that it is acceptable for the roading connection between the Mangaone Precinct and the Henmar Land to be via Zig Zag road, the services in the Mangaone Precinct still need to be extended to the Henmar boundary to meet the usual connectivity requirements in the District Plan policies and to enable efficient servicing of the C10 Growth Cell.
17. The isolation of any identified development land from adjoining development land by failing to take services to the boundary would be counter productive to the purpose of

identifying Growth Cells in the District Plan. The connectivity and servicing efficiency policies have a strong focus on locations where growth and development are planned.

18. If development of one part of a Growth Cell is made more difficult by failing to connect services efficiently, the motivation for development of the Growth Cell is reduced and the prospects of having the full Growth Cell integrated can be seriously compromised.

Amenity protection at the industrial/Rural zoning interface

Henmar Trust land to the north of Zig Zag Road

19. The Henmar Trust land north of Zig Zag Road will remain under a Rural zoning indefinitely, with no overlays or structure plans identifying it for any other use. The setback and landscaping requirements in the rules for the Mangaone Precinct should be adequate to ensure appropriate amenity for everyone living and working on the surrounding non-industrial land.
20. The Henmar Trust operates a dairy farm that includes this land and is required to meet all health and safety requirements and wishes to provide as pleasant as possible a place for people working on the farm. Amenity protections at this industrial/rural interface need to reflect the likely indefinite zoning of the Henmar Trust land as Rural Zone.
21. Although the northern part of the Henmar Trust land is not immediately adjoining as the C10 Growth Cell land is, it is still a valid request to ensure that the amenity protections are comprehensive and practical, with setback and landscaping requirements that respond to the maximum height of buildings that are permitted within the proposed industrial zone and that respond to the industrial nature and overall scale of buildings and industrial activity.
22. The amenity protection rules in other parts of Hautapu at the industrial/rural interface are more comprehensive than those that are currently proposed by Fonterra and are supported by the s42A report. Those differences are described in Ms Bourke's evidence.

23. The activities that are proposed to be permitted under the new zoning are portrayed as restrictive, however the range of activities that are likely to fall within the Dry Industry category could be very wide.

Henmar Trust land in the C10 Growth Cell

24. The farming activities at this location adjacent to the Mangaone Precinct will continue for an unknown period. Although the land is within the C10 Growth Cell, the trust will need to wait for market and economic factors to justify an extension of the Industrial Zone into their C10 land. A substantial process is required to support a plan change for such a re-zoning.
25. The absence of any road or other separation between the proposed Industrial Zone and the Rural Zone at this boundary requires a good setback if buildings can have a height up to 20 metres. A substantial landscaping strip capable of screening a 20 metre building should be combined with a setback that will make the screening effective.
26. The Futureproof subregional growth strategy sets the timing for development of the Henmar Trust C10 land in the period after 2035. To justify any earlier rezoning to Industrial, the criteria in Futureproof for such a shift in timing would have been established. With a large area of land being rezoned to industrial under PC 14, that seems unlikely to be a realistic prospect any earlier than 2035. 10 years is a substantial period of time to expect a rural land use to be continued without appropriate amenity protections. It is simply not sufficient to say that such protections are not needed because the land will probably eventually be rezoned for industrial use.

Flooding effects of development of the PC 14 land

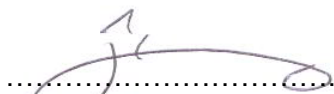
27. The Applicant's stormwater report by Harrison Grierson includes a prediction that there will be additional flooding caused to the Henmar Trust land within the C10 Growth Cell as a result of development of the and management of PC 14 land stormwater as currently proposed.
28. The Henmar Trust has been led to understand that the stormwater basin in the Kiwifruit Block will overtop during the 1% AEP storm event. It is necessary to find out whether that overtopping has been taken into account in modelling of the effects of the 1% AEP event on the Mangaone Stream, particularly the Henmar Trust property.

29. Pages 17-24 of the Harrison Grierson Stormwater Management Plan document dated 12 April 2024 need to be considered carefully. (Pages available in hard copy) The report on the hydraulic modelling predictions relies on the impact just upstream of the Victoria Road culvert being at a low level of increased flooding i.e low level of increased height of flood waters, but figures 13, 14 and 15 show substantial increase in the areas flooded in comparison with the pre-development flooding effects. Figure 13 shows a substantial area of the Henmar Trust property receiving post-development flooding up to 0.1 metres (100mm) higher than pre-development. A small but still significant area of increased flooding up to 0.1 metres higher is shown in figure 14 for the 10% AEP storm event. Even the flood level difference shown for the 50% AEP storm event in figure 15 is a material increase in flooding up to 0.1 metres.
30. Viewing the flood level difference maps, it seems clear that the Victoria Road culvert is a hydraulic control that increases flooding upstream in the Henmar Trust land, but reduces or continues the current levels of flooding downstream of the culvert. The commentary at page 22 of the Harrison Grierson report refers to the impact upstream of the Victoria Road culvert not affecting the downstream areas and refers to mitigation downstream of Victoria Road. You can be sure that the landowners downstream of Victoria Road are pleased with that outcome but any reduction in flooding outside of the Henmar Trust property produce no mitigation for the flooding effects on that property. The extents of the predicted additional flooding are significant and potentially do not take into account the impact of overtopping of the stormwater basin in the Kiwifruit Block.
31. The predicted increases in flooding extent and depth within the Henmar Trust land are effects that will not only have an impact on the land while it remains farmed but will have different but potentially significant impacts on the eventual future industrial development of that land.
32. The District Plan Provisions for the PC 14 precinct need to have a clear requirement that development of the land must include stormwater management that does not increase the extent or depth of any downstream flooding. Otherwise there is a real prospect of the Henmar Trust land being effectively used as a sacrificial area to protect against additional flooding further downstream.

The Kiwifruit Block

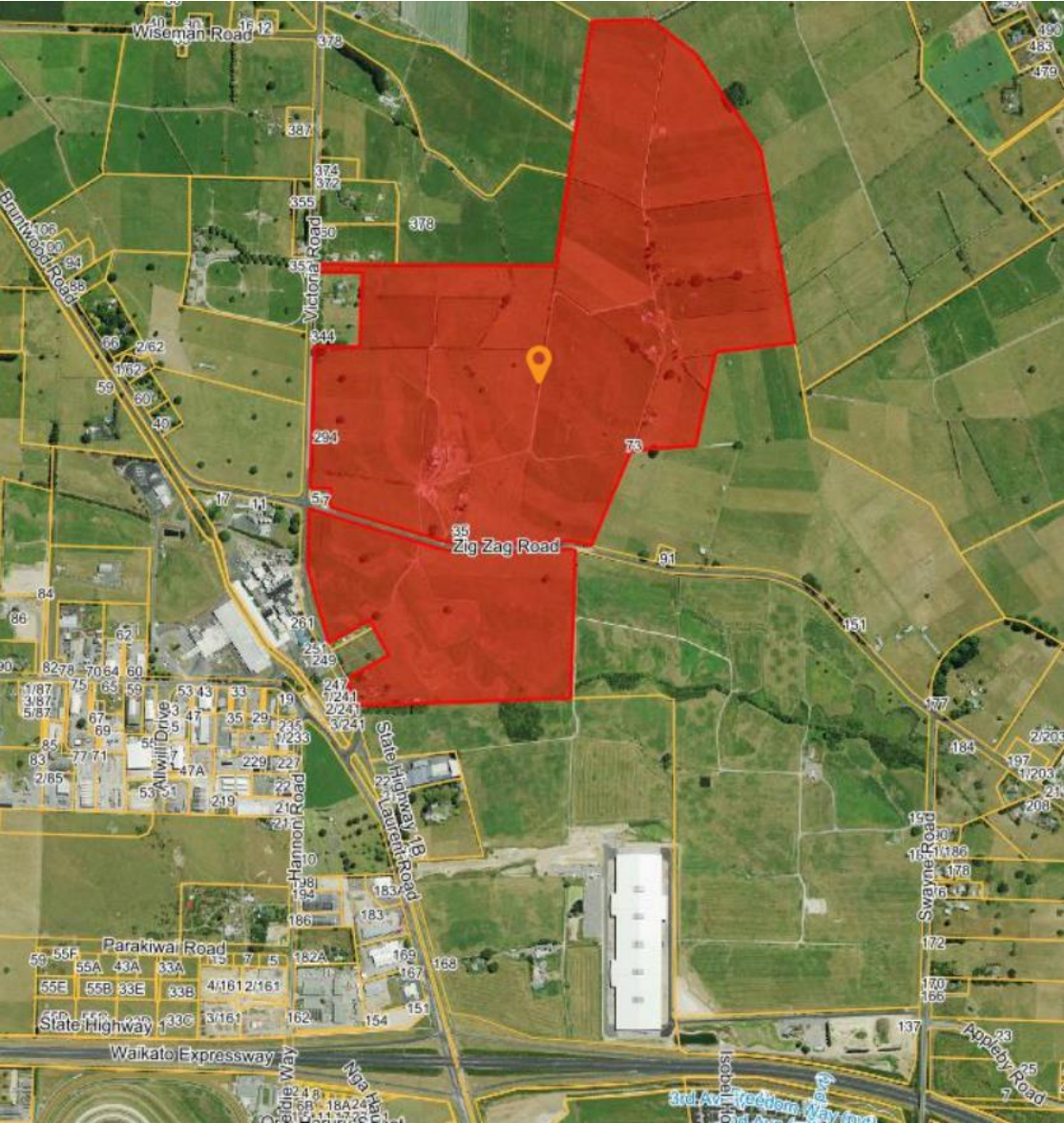
33. From the supporting technical documents for PC 14 it is difficult to identify how the Kiwifruit Block would have been factored into any s32 report and difficult to identify any technical assessments.
34. The Kiwifruit Block appears to have been excluded from the hydraulic modelling for PC 14 on the basis that the discharge from the stormwater basin gets to directed to a different subcatchment that does not affect the Mangaone Stream upstream of Victoria Road. That is an assumption that needs to be verified, as information about the discharge to surface water from the basin has been difficult to obtain.
35. Assessments relating to the inclusion of the Kiwifruit Block in the PC 14 proposal appear extremely scant, possibly non-existent. The potential for roading connections between that block and the rest of PC 14 appears not to have been considered, including heavy vehicle access to Swayne Road and Zig Zag Road.

Dated: 5 March 2025

A handwritten signature in blue ink, appearing to be 'P Lang', written over a horizontal dotted line.

P Lang, counsel for the Applicant

Appendix A



Appendix B

15.3

Objectives and Policies

Please also refer to the objectives and policies of Parts C, Part D and Part F, as relevant.

Objective - Integrated development: site design and layout

15.3.1

To achieve integrated [development](#) within the [District](#), that contributes to creating sustainable communities and enhances key elements of character and amenity.

Policy - Understanding the constraints and opportunities of a site by undertaking a site and surrounding area analysis

15.3.1.1

[Development](#) and [subdivision](#) should integrate with and acknowledge the constraints and opportunities of the [site](#) and surrounding area.

Policy - Sustainable design and layout development principles

15.3.1.2

[Development](#) and [subdivision](#) within the urban limits and the Large Lot Residential Zones, should occur in accordance with the principles of sustainable design, and enable energy efficiency.

Policy - Low impact design

15.3.1.3

The design and layout of [development](#) and [subdivision](#), should recognise the landform and processes of the natural [environment](#) of the [site](#) and surrounding land, and avoid or minimise alterations to the landform and ecosystems.

Policy - All zones: ensuring boundary adjustments and boundary relocations do not compromise amenity

15.3.1.4

Boundary adjustments and [boundary relocations](#) shall not create or increase any non compliance with rules for new [lots](#) in the zone within which the [subdivision](#) is taking place.

Objective - Integrated development: natural hazards and site suitability

15.3.2

To ensure that [sites](#) proposed as part of a [development](#) or [subdivision](#) will be capable of accommodating [activities](#) anticipated within the applicable zone.

Policy - Land to be suitable for use

15.3.2.1

Land to be developed or subdivided must be physically suitable to accommodate the permitted [land use activities](#) for that zone in accordance with the rules of this Plan.

Policy - Consideration of natural hazards

15.3.2.2

[Development](#) and [subdivision](#) design should avoid [natural hazards](#), or provide for the mitigation of the hazard within the [development](#) or [subdivision](#) design.

Policy - Consideration of climate change

15.3.2.3

[Development](#) and [subdivision](#) design should avoid areas that may be subject to the known effects of climate change, or provide for the mitigation of the effects of climate change within the [development](#) or [subdivision](#) design.

Policy - Consideration of reverse sensitivity

15.3.2.4

[Development](#) and [subdivision](#) design should not result in [reverse sensitivity](#) effects on [adjacent sites](#), [adjacent activities](#), or the wider receiving environment.

Policy - Dairy manufacturing sites

15.3.2.5

To ensure that the potential [reverse sensitivity](#) issues of locating new [development](#) in the vicinity of the Hautapu and Te Awamutu Dairy Manufacturing sites are taken into account.

Policy - Proximity to poultry farming activities

15.3.2.6

To ensure that the potential [reverse sensitivity](#) issues of locating new [dwellings](#) in the vicinity of a [poultry farming](#) activity are taken into account.

Objective - Integrated development: efficient servicing

15.3.3

Achieving the efficient and cost effective servicing of land by ensuring that servicing is provided to areas proposed to be developed.

Policy - Servicing requirements

15.3.3.1

All proposed urban [development](#) and [subdivision](#) shall be serviced to a level that will provide for the anticipated [activities](#) approved in a [structure plan](#), or otherwise anticipated within the zone. Servicing requirements shall include:

- a. Reserves for community, active and passive recreation; and
- b. Pedestrian and cycle connections; and
- c. [Roads](#); and
- d. Public transport infrastructure, e.g. bus stops; and
- e. Telecommunications; and
- f. Electricity; and
- g. Stormwater collection, treatment and disposal; and
- h. Wastewater treatment and reticulation, water provision for domestic and fire fighting purposes; and
- i. [Anticipating and providing for connections to identified adjacent future growth areas](#).

Advice Note: There are significant servicing constraints in some areas of the [District](#). Early discussion on the serviceability of a [site](#) is recommended.

Policy - Co-ordination between servicing and development and subdivision

15.3.3.2

[Development](#) and [subdivisions](#) shall:

- a. Be located in areas where infrastructural capacity has been planned and funded; and
- b. In areas subject to an [approved structure plan](#), provide sufficient infrastructural capacity to meet the demand identified in the [structure plan](#); and
- c. Achieve the [lot](#) yield anticipated in an [approved structure plan](#); and
- d. Include [infrastructure](#) provision for both the strategic [infrastructure](#) network and local [infrastructure](#) connections.

Policies - Roading infrastructure

15.3.3.3

The design, location, alignment, and dimensions of new [roads](#) shall ensure that safe vehicle, pedestrian, and cycling access and manoeuvring can be provided to every [site/lot](#).

15.3.3.4

The roading pattern shall ensure connectivity to [adjacent](#) land identified as Deferred Zones or [future growth areas](#), and the provision of public transport infrastructure, such as bus stops.

Policy - Standard of infrastructure

15.3.3.5

Infrastructure services shall be provided to a standard that will allow the service to be extended to Deferred Zones or [future growth areas](#).