

BEFORE THE HEARING PANEL ON PROPOSED PLAN CHANGE 17 TO THE WAIPA DISTRICT PLAN

IN THE MATTER of the Resource management Act 1991 (the Act)

AND

IN THE MATTER of proposed Plan Change 17 to the Waipa District Plan

Joint memorandum of counsel regarding position of the Hautapu Landowners' Group and the Kama Trust

Dated: 16th of June 2023

Instructing solicitor



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MAY IT PLEASE THE HEARING PANEL

INTRODUCTION

1. The hearing of submissions on Plan Change 17 to the Waipa District Plan (“PC17”) took place on 14 June 2023.
2. A key issue during the hearing was the proposal for a “live” industrial zoning of the Hautapu Landowners’ Group (“HLG”) land and whether this was within the scope of the submission lodged by the HLG (and therefore whether the Hearing Panel had jurisdiction to consider a “live” zoning).
3. Counsel for the HLG and counsel for the Kama Trust made legal submissions in relation to the question of jurisdiction of the Hearing Panel. Counsel for the Waipa District Council (“Council”) did not express a position.
4. Following the hearing of evidence and the Hearing Panel’s deliberations as to procedure for addressing the issue of jurisdiction, counsel for the HLG and counsel for the Kama Trust agreed an appropriate way forward which would ensure minimum delay to the decision on PC17. This was set out to the Hearing Panel at the hearing.
5. The purpose of this memorandum is to record the position of the HLG and the Kama Trust so that the Hearing Panel may issue appropriate directions and proceed to determine PC17.

HLG POSITION REGARDING PROPOSAL FOR “LIVE” INDUSTRIAL ZONING

6. At the hearing, the HLG agreed to withdraw its proposal to seek a “live” zoning of its land (described as Area 7 in the evidence for the HLG), on the basis that:

(a) If the deferred industrial zoning of the HLG land was confirmed in the decision of the Hearing Panel, a Council led variation to PC17, or plan change to the operative Waipa District Plan, would be promulgated with urgency to enable a “live” industrial zoning of the HLG land.

(b) The Council would support, in principle, point (a) above.

(c) The HLG (or any successor) would prepare the necessary documentation for a future variation or plan change, which would be adopted by the Council.

7. Regarding point (c) above, the HLG will engage and consult with relevant Iwi representatives for the purposes of preparing a draft variation to P17 or plan change to the Waipa District Plan.

KAMA TRUST POSITION

8. Kama Trust indicated that subject to reviewing the detail of any such variation or plan change, and on the basis that the “80% development” trigger and rule would apply, it would support any such variation or plan change.

ADJOURNMENT OF HEARING

9. Counsel for the HLG and counsel for the Kama Trust understand that the hearing of P17 was adjourned to allow the section 42A author to update their report, and for closing legal submissions to be lodged by counsel for the Council.
10. In the interest of certainty and efficiency, both the HLG and the Kama Trust seek a decision on PC17 as soon as practicable. In that regard, counsel for the HLG and Kama Trust consider there are no remaining

jurisdictional issues and the Hearing Panel has sufficient evidence before it to decide PC17. On that basis no further expert caucusing is necessary.

DIRECTIONS SOUGHT

11. Counsel request directions from the Hearing Panel:
- (a) Confirming the position stated in paragraph 6 above;
 - (b) That no further expert caucusing is required for it to determine PC17;
and
 - (c) Requiring the s42A updated report by no later than 23 June 2023.



M Mackintosh

Counsel for Dean Hawthorne, on behalf of the Hautapu Landowners' Group



L F Muldowney

Counsel for the Kama Trust