

BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Plan Change 17 to the Waipa District Plan –
Hautapu Industrial Zones

**REBUTTAL STATEMENT OF EVIDENCE OF GARETH ELLIOT MORAN ON BEHALF
OF KAMA TRUST**

(PLANNING)

Dated 17 March 2023

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INTRODUCTION

1. My full name is Gareth Elliot Moran. I have the qualifications and experience as set out in my Evidence in Chief (**EiC**) dated 13 March 2023 and evidence addendum dated 17 March 2023.
2. As per my EiC, I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and I agree to comply with it. In that regard I confirm that this rebuttal evidence is within my sphere of expertise, and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
3. The purpose of this rebuttal statement, which is provided on behalf of Kama Trust, is to respond to aspects of the pre-circulated expert evidence submitted on behalf of other submitters on Plan Change 17 (**PC17**). I confirm that I have read all the expert evidence and focus my rebuttal on the statements that are necessary to respond to in my opinion.

CORRECTION

4. I would like to correct an error in my EiC, where I have incorrectly stated in paragraph 56 that *“conversely, the Industrial Zone, does not have the ability for one single night time event to exceed 70dBA (lax) like the Rural Zone does”*.
5. This is not correct, as Rule 7.4.2.20 (f) outlines that a maximum single night-time noise event of 70dBA (Lax) is permitted in the Industrial Zone. This is in fact the same noise threshold permitted in the Rural Zone for a single night-time event. Notwithstanding that correction, the key conclusions made within my EiC remain unchanged.

SCOPE

6. My rebuttal evidence will focus on the key points of conflict that have arisen following my review of the expert evidence submitted on 13 March 2023.

REBUTTAL

Evidence of Christina Walker on behalf of Maria Barrie

7. In my view the key narrative of Ms Walker's planning evidence is that the proposed rezoning of Area 6 will result in adverse effects on the submitter's property located at 345 Peake Road. For the record, 345 Peake Road is located on the western side of Peake Road opposite the north western corner of Area 6.
8. Ms Walker also suggests the proposed rezoning of Area 6 is contrary to a number of high-level documents, namely the National Policy Statement on Highly Productive Land (**NPS-HPL**) and the National Policy Statement on Urban Development (**NPS-UD**) and the Waikato Regional Policy Statement (**WRPS**).
9. Ms Walker concludes that the rezoning of Area 6 should be refused, however in the event that PC17 is approved, has sought additional relief.
10. I will comment on each of Ms Walker's comments sequentially below. I will attempt to avoid repeating points which I have made in my EiC.

Noise

11. I acknowledge Ms Walker's comments, in that noise generated from industrial activities could be considered as a *different* type of noise than could be expected from permitted rural activities. However, the district plan doesn't discriminate between the origins of noise. Noise is noise, and

is controlled by various dBA restrictions within the District Plan. There are no provisions or controls within the District Plan associated with the source of noise.

12. The permitted Rural Zone noise levels specified in the District Plan will not change following the rezoning of Area 6, aside from a minor increase in the permitted night time noise levels. However, given the increased setbacks, landscaping and mounding requirements, will in my view offset any potential effects associated with the slightly higher permitted noise levels during night time hours.
13. It is further noted that Ms Walkers was likely unaware that the stormwater soakage basin located along the northern boundary of Area 6 will generate significantly larger boundary setbacks than what currently exists within the Rural Zone. As outlined in my EiC, a setback of 40-50m is likely along the northern boundary of Area 6.
14. Based on the larger setbacks and the location of the stormwater basin, the land located on the opposite site of Peak Road directly in front of the dwelling at 345 Peake Road, will remain undeveloped in perpetuity.
15. In my view, the proposed future development outcome for Area 6, represents a better outcome for this submitter over and above what is currently permitted under the existing Rural Zone provisions.

Rural Character

16. I concur with Ms Walkers evidence in that the amenity values of the area will somewhat change following the proposed rezoning of Area 6; however, the word 'change' does not necessarily denote an adverse environmental effect.
17. Ms Walker has primarily focused on the supporting documentation in the District Plan relating to the Rural Zone. It is unrealistic to think that the

same amenity values attributed to the Rural Zone will be retained once the site is rezoned. However, the more restrictive boundary treatments including landscaping and mounding, which are not a binding requirement of the Rural Zone, will in my view ensure that a high level of amenity retained for the owners of 345 Peake Road.

National Policy Statements

18. Ms Walker has made the following assertions in her evidence which link back to the NPS-HPL and also the National Policy Statement for Urban Development (**NPS-UD**):
 - a) There is insufficient evidence to determine if the PC aligns with clause 3.6 of the NPS-HPL.
 - b) There are alternative options available for industrial land and whether Area 6 is the most suitable location.
 - c) There is no economic evidence supporting PC17.
19. Area 6 has been included in the Future Proof Strategy which directs future growth. The acceptability of the area for future urban development was confirmed within the Future Proof decision. This cannot be disputed.
20. Following the Future Proof decision and the release of the NPS-UD, the WRPS is currently being updated through Plan Change 1, to reflect the additional land supply requirements which involves acknowledgment of Area 6 for future urban development within a 'strategic industrial node'.
21. Hautapu Landowners Group (**HLG**) have provided an economic assessment as part of its evidence package prepared by Property Economics Limited. The report concludes that not only Area 6, but the additional land to the north occupied by HLG can be supported from an economic perspective.

22. In conclusion, I disagree with Ms Walker's evidence and conclude that the rezoning of Area 6 aligns with the above referenced documents.

Waikato Regional Policy Statement (WRPS)

23. Ms Walker concludes that the rezoning of Area 6 is inconsistent with the objectives and policies of the WRPS.
24. This statement of Ms Walker is not correct as the WRPS – Plan Change 1 has been notified to include the new principles associated with the NPS-UD and the updated Future Proof Strategy. As outlined, Area 6 has been included in the Future Proof Strategy, meaning it has also been recognised in the WRPS. Page 47 of the WRPS – Plan Change 1 clearly articulates this. *“The land identified for the Hautapu Industrial Node is the land specified in Waipa 2050 Growth Strategy and the Future Proof Strategy 2022.”*
25. In conclusion, I remain satisfied that PC17 is consistent with the WRPS.

Relief Sought

26. Ms Walker has requested the following relief should Area 6 be rezoned, which I will paraphrase as follows:
- a) Dry industry to be classified as a Controlled Activity to enable additional landscaping and noise mitigation;
 - b) Reduction of the night-time levels to be consistent with the Rural Zone provisions; and
 - c) Additional provisions relating to forklifts.
27. I will comment on each of the above points sequentially below.

28. In my opinion, the additional landscaping and mounding requirements together with the increased setbacks required to account for the stormwater soakage basin will adequately avoid and/or mitigate adverse effects on the submitter's property as detailed in my EiC. On this basis, I disagree with the assertion that industrial activities should be subject to a Controlled Activity resource consent. In addition, the requirement of every future activity to establish in Area 6, being subject to a resource consent process, will create unnecessary time delays and costs to the overall development of the area.
29. As established throughout my EiC, I conclude that the increased setbacks, landscaping and mounding requirements, will mitigate any potential effects generated from the small increase in night-time noise levels. As such, I disagree that the night-time noise level should be adjusted to match the existing Rural Zone provisions.
30. Based on the information provided in Ms Walker's evidence, I am uncertain what additional provisions relating to forklifts are proposed. I am therefore unable to comment further. Regardless, I maintain that the noise mitigation measures and boundary treatments will adequately avoid and/or mitigate any potential effects on this submitter.

Evidence of Mark Bulpitt Chrisp on behalf of 'The Hautapu Landowners Group'

31. Mr Chrisp's evidence focuses primarily on the inclusion of the area occupied by the HLG as part of the PC17 process.
32. I will not comment on the criticisms Mr Chrisp has made in relation to the PC17 process, nor the issue surrounding 'scope'.
33. I disagree that the rezoning of Area 6 will have an adverse effect on the land occupied by HLG, as documented in my EiC.

Evidence of Mark Bulpitt Crisp on behalf of Fonterra Limited

34. The key narrative of Mr Crisp's evidence on behalf Fonterra Limited is that 'Area 6' should be identified in the District Plan as 'Specialised Dairy Industrial' zone/overlay in order to mitigate any potential reverse sensitivity effects.
35. I disagree with the inclusion of the Specialised Dairy Industrial zoning/overlay due to the following reasons:
- a) Reverse sensitivity effects are exacerbated when 'sensitive' activities such as residential development are introduced into an area in close proximity to less sensitive activities. Industrial activities permitted within Area 6, are not 'sensitive' activities, thus in my view are highly unlikely to generate reverse sensitivity effects.
 - b) The consequence of a Specialised Dairy Industrial zone/overlay is that every future business (not related to the processing of milk and production of milk related products) wanting to establish in Area 6 will trigger a Restricted Discretionary resource consent. As a further impediment, the resource consent process will be reliant on a 'written approval' from Fonterra Limited. These restrictions will add additional time and costs, which I have broken down further as follows:
 - i. Restricted Discretionary activities require a Council deposit of \$2,550 (under the Draft 2023-2024 – Fees and Charges). Given the complex nature of resource consents, a business owner will likely need to obtain the services of a planning consultant to prepare an application for resource consent on their behalf at a cost of approximately \$2,500 (depending on the consultancy). This equates to an additional cost in the vicinity of \$5,000.

- II. In terms of time-frames, a resource consent application is bound by a 20-working day timeframe to be processed at Council. Based on recent experience, very few consents are processed within 20 working days, as the majority are subject to further information requests and time extensions.
 - III. As a further requirement, a business owner will be required to obtain written approval from Fonterra Limited, which will create further delays. To put this comment into perspective, I was involved with the consenting process to relocate the Saddlery Warehouse from Carters Flat to Alwill Drive, which is located in the Specialised Dairy Industrial area. In my view, this should have been an innocuous consenting process, with minimal to zero effect on Fonterra Limited. Although I cannot recall the exact time it required to obtain approval from Fonterra, it was substantial, and it created significant delays and costs to the project.
36. Whilst I do not disagree with Mr Chrisp regarding the importance of the Hautapu Dairy Factory, given no additional sensitive activities will be permitted within Area 6, placing additional legislative obligations, time and costs on local business owners through a resource consent process is not justified given the unlikely occurrence of any potential reverse sensitivity issues.
37. I therefore support the recommendation in Council's s 42A Report that this submission from Fonterra not be upheld.

CONCLUSION

38. Having read the various submissions, I maintain my position that Area 6 should be rezoned in accordance with recommendations in Council's s 42A Report.

Gareth Elliot Moran

17 March 2023