

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

**Memorandum on behalf of Dean Hawthorne of the “Hautapu Land Owners’ Group” in response to Minute 4 of the Hearing Panel
Dated 25 January 2023**

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MAY IT PLEASE THE HEARING PANEL

1. This memorandum responds to Minute 4 of the Hearing Panel, dated 18 January 2023.
2. Minute 4 directs a pre-hearing meeting on 2 February 2023 to discuss, and determine, which of the two options identified in Minute 4 will apply to the submission lodged by Mitchell Daysh, on behalf of the Hautapu Landowners Group (“HLG”).¹ Mr Hawthorne is the lead representative of this group.
3. Counsel for Mr Hawthorne is concerned that the options set out in Minute 4 are framed in a binary manner, rather than as a staged process. That is, either:
 - (a) there will be a determination of the question of scope to seek the inclusion of the land to the North of the Kama Trust land, which implies that the option of a future Variation will not be available once a determination is made; or
 - (b) Mr Hawthorne and the submitter group enter discussions with the Waipa District Council in relation to a future Variation to Plan Change 17 to re-zone the land to the north of the Kama Trust land.
4. Relevantly, the Strategic Planning and Policy Committee of the Waipa District Council passed a resolution on 6 September 2022 as follows:

Approves, in principle, the preparation and notification of a variation to Proposed Plan Change 17 proposing the rezoning of land to the north of the Kama Trust Area (as defined in this report) from Rural to Deferred Industrial subject to:

¹ An adjournment has been requested by Mitchell Daysh to a later date.

- i) Sufficient funding; and
 - ii) Council receiving technical reports which supports this rezoning, prior to Plan Change 17 becoming operative.
5. This approval in principle provides certainty regarding a Variation to Proposed Plan Change 17 (“PC17”), which is not evident in Minute 4. This resolution clearly provides for the option of a Variation to be pursued.
6. The HLG has engaged the relevant experts to prepare the relevant technical reports and evidence. This work is underway and is relevant to both PC17 (on the basis there is scope for consideration through the submission process), or a future Variation.
7. The HLG submission on proposed PC 17 opposed the plan change as notified and sought relief that the land to the north of the Kama Trust land be re-zoned to deferred industrial. This in turn raised the question of scope to seek the proposed deferred industrial zoning. The question regarding scope is a matter for legal submissions. However, a finding on scope should not mean that a Variation is no longer an option.
8. With respect, the appropriate process is two phased. First, the question of scope of the relevant part of the submission is determined, following receipt of legal submissions. Second, if the finding of the Hearing Panel on scope finds that the part of the submission seeking the deferred industrial zoning of the land to north of the Kama Trust land is not within scope, the parties then engage in discussions to facilitate the preparation and notification of a variation to proposed Plan Change 17.
9. In either case, the part of the submission which opposes proposed Plan Change 17 remains live. That part of the submission may be withdrawn in the future, depending on which option is ultimately pursued.

Proposed approach to determination of options set out in Minute 4

10. Mr Hawthorne and the HLG wish to resolve the matter in a way that is efficient for all parties involved. An extension to the timetable leading to the current date of the pre-hearing meeting has been sought by Mitchell Daysh on behalf of the HLG.

11. Bearing this in mind, Counsel is instructed to propose the following process to enable engagement between the Waipa District Council and the HLG prior to a pre-hearing meeting:
 - (a) The proposed pre-hearing meeting is adjourned.
 - (b) The Waipa District Council and the HLG, together with their respective representatives, as well as representatives of the Kama Trust, engage in discussions with a view to agreeing on the option to be pursued in respect of the land to the north of the Kama Trust land.
 - (c) The Waipa District Council reports back to the Hearing Panel at the conclusion of those discussions to advise the outcome of those discussions and whether a pre-hearing meeting is required. If a pre-hearing meeting is considered necessary, the report will propose a timetable for the same, including provision for the exchange of legal submissions.
 - (d) If a pre-hearing meeting is required, the Hearing Panel issues a further minute setting out a timetable for the same.

Directions sought:

12. Counsel respectfully seeks directions in accordance with paragraph 11 above.



M Mackintosh
Counsel for Mr Dean Hawthorne

