

BEFORE THE HEARINGS PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Plan Change 17 to the Operative Waipā
District Plan

MEMORANDUM OF COUNSEL ON BEHALF OF KAMA TRUST

Dated 21 March 2023

LACHLAN MULDOWNY

BARRISTER

P +64 7 834 4336 **M** +64 21 471 490

Office Panama Square, 14 Garden Place, Hamilton

Postal PO Box 9169, Waikato Mail Centre, Hamilton 3240

www.lachlanmuldowney.co.nz

MAY IT PLEASE THE HEARING PANEL**Background**

1. Counsel refers to the memorandum of counsel for the Hautapu Landowners Group (**HLG**) dated 20 March 2023 (**HLG memorandum**) which was filed in response to the hearing panel's Minute #9 dated 16 March 2023.
2. In the hearing panel's Minute #8 dated 6 March 2023 it determined that the part of HLG's submission seeking rezoning of its land from Rural to Deferred Industrial be struck out, and that this part of the submission will not be considered at the hearing. Subsequently, HLG lodged an objection to that determination under s 357 of the Resource Management Act 1991 (**objection**).
3. Counsel understands that the objection has not yet been scheduled to be heard, but that it is likely to be heard in early April 2023.
4. The HLG memorandum seeks confirmation that the hearing into submissions on PC17 currently scheduled for 29 March 2023 will be adjourned, to a date subsequent to the determination of the objection hearing.

Kama Trust Position

5. Kama Trust does not wish to engage in a hearing process on the 29th of March 2023, which will be conducted on the basis of Minutes #8 and #9, only to potentially be required to attend a further hearing conducted on the basis of the objection being successful, which would involve related, but substantively different facts and issues.
6. Accordingly, subject to the panel's approval of the matters set out below,

it supports the adjournment of the hearing for a short period, to enable the objection to be determined, and the scope of the hearing to be defined accordingly.

7. If the hearing is adjourned, and the objection is upheld, Kama Trust will require an opportunity to file evidence in reply to the currently 'out of scope' evidence filed by HLG which presents its case for the inclusion of the Deferred Industrial Zoning. Prejudice will arise if it is not afforded this opportunity.
8. If the hearing is to be adjourned, counsel requests that the panel:
 - a. confers with Kama Trust as to the availability of its counsel and witnesses before establishing another hearing date;
 - b. vacates any remaining procedural directions relating to the hearing currently scheduled for 29 March 2023; and
 - c. establishes a new set of procedural directions for the deferred hearing, incorporating the reply from Kama Trust, and with input from Kama Trust before finalizing.

Dated 21 March 2023



L F Muldowney
Counsel for Kama Trust