BEFORE THE COMMISSIONER

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Private Plan Change 33 to the Waipā District Plan – Hautapu Area 7

LEGAL SUBMISSIONS ON BEHALF OF KAMA TRUST

Dated 30 October 2025

LACHLAN MULDOWNEY
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

INTRODUCTION

1. These legal submissions are presented on behalf of the trustees of Kama Trust (**Kama Trust**) who are landowners within Area 6. Kama Trust is a private family trust representing the Boyd family's land holding interests.

2. The Boyd family has lived in, and been associated with, the Cambridge area for many years. The family have owned and run significant businesses in Cambridge for over 40 years including within the commercial, horticultural and agricultural sectors. The family are longstanding Hautapu land owners.

3. Kama Trust conditionally supports Proposed Private Plan Change 33 to the Waipā District Plan (**PC33**), subject to the amendments recommended by the Section 42A Report author (**42A report**), which are supported by Kama Trust's planner, Mr Gareth Moran.

4. Kama Trust is principally concerned with the 'trigger rule' controlling when development and subdivision within Area 7 can commence. It seeks that proposed Rule 15.4.2.XX be amended, as per the recommendations made within the 42A report to read:

> The subdivision and development of Area 7 for industrial purposes can occur either where Area 6 of the Hautapu Industrial Structure Plan Area has reached 80% development (i.e., 80% of the developable area is the subject of s.224 certificates) or by 31 March 2030, whichever occurs sooner.

5. The legal and planning basis for this position is set out below.

RELEVANT HISTORY - PC17

6. Plan Change 17 (**PC17**) was a Waipa District Council (**Council**) led plan change which changed the zoning of Area 6 from rural to industrial.[1] Kama Trust was a submitter in support of PC17. Hautapu Landowners Group (**HLG**) was also a submitter on PC17, and sought that the plan change extend to include changing Area 7 from rural to deferred industrial zoning.

7. HLG has provided evidence in PC33 addressing its views on the history of PC17. Kama Trust takes issue with HLG's account, but the details are mostly, for the purposes of determining PC33, irrelevant.

8. What is relevant to PC33 are those parts of the PC17 decision which address the relationship between Area 6 and Area 7, in particular, the controls on the timing of development within Area 7. Kama Trust and HLG agreed on the plan provisions within PC17 which controlled that timing, and this agreement was reflected in the decision on PC17.

9. Through PC33, HLG seeks to change the deal. Kama Trust objects to that outcome, not just because a deal is a deal, but because the planning merits support retention of the existing rules.

10. Under Rule 15.4.2.69 of the Waipa Operative District Plan (**ODP**):

> All development and subdivision within an area subject to an approved structure plan, development plan or concept plan shall be designed in general accordance with the requirements of that structure plan, concept plan or development plan. For the avoidance of doubt, the following areas are subject to concept plans, development plans and/or structure plans:
>
> …

[1] Decision dated 10 August 2023.

> D. Hautapu Industrial Structure Plan and Landscape Guidelines Appendix S5

11. The Hautapu Industrial Structure Plan is addressed in Appendix 1 – Future Growth Cells, which sets out various intended land allocations, and their timing requirements. PC17 introduced the following provision to Appendix 1 (**ODP trigger**):

> The deferred status of the Industrial Zone (Area 7) can be uplifted via a plan change once Area 6 of the Hautapu Industrial Structure Plan Area has reached 80% development (i.e. 80% of the developable land area is the subject of s.224 certificates) or by 31 March 2030, whichever occurs sooner.

12. This ODP trigger was agreed between HLG and Kama Trust during the hearing of PC17. It controls when the deferred status of the industrial zoning of Area 7 can be 'uplifted' to industrial zoning via a plan change.

PC33

13. PC33 has been notified and will be determined well in advance of the ODP trigger. To address this acceleration, PC33 contains proposed Rule 15.4.2.XX which is intended to control the commencement of development or subdivision once industrial zoning is established.

14. However, this rule materially departs from the timing established under the ODP trigger. As notified under PC33, the rule reads:

> **Rule 15.4.2.XX**
> The subdivision and development of Area 7 for industrial purposes can occur either:
> a) In conjunction with Area 6 in accordance with a co-ordinated subdivision consent application process incorporating both Areas 6 and 7; or
> b) When Area 6 of the Hautapu Industrial Structure Plan Area has reached 80% development (i.e., 80% of the developable land area

is the subject of s.224 certificates); or by 31 March 2026, whichever occurs sooner.

15. Kama Trust lodged a submission on PC33 which opposed this proposed rule, particularly the reliance on the notion of a co-ordinated subdivision between Areas 6 and 7, which was impractical and unenforceable, and the bringing forward of the backstop date from 2030 to 2026.

16. The planning evidence filed on behalf of HLG proposed that the rule be amended to read:

Rule 15.4.2.XX

The subdivision and development of Area 7 for industrial purposes can occur either:

a) when Area 6 of the Hautapu Industrial Structure Plan Area has reached 80% development (i.e. 80% of the developable area of Area 6 is the subject of s.224 certificates); or

b) when Road 4 has been vested in Council as required by Rule 15.4.2WW; or

c) by 31 March 2027 ~~2030~~,

whichever occurs sooner."

17. Kama Trust opposes the rule, both in the notified form, and as proposed to be amended. Its reasoning is similar to that set out in the s42A report which provides[2]:

4.2.19 I have concerns that if the proposed activation date of 31 March 2026 is reached before the subdivision of Area 6 is completed, an expectation could arise from landowners within Area 7 that subdivision and development of their land could occur ahead of the road through Area 6 being constructed and vested in Council.

[2] S 42A Report at 4.2.19 - 21

4.2.20 It is necessary to avoid the potential for new activities to seek to establish within Area 7 having vehicle access obtained from Peake Road. Avoiding vehicle access from Peake Road is a key requirement and outcome of the Hautapu Industrial Structure Plan. Because of this it is recommended that part (b) should be amended to refer to 31 March 2030 being the date that was settled and agreed to as part of PC17.

4.2.21 Market Economics also consider that it is important that the date of 31 March 2030 is retained.

18. The Market Economics report identifies the risks associated with the oversupply of industrial zoned land in this location, noting in its conclusions that:[3]

> In particular, bringing forward the sequencing trigger from the established 80% development threshold (or 2030 backstop date) to 2026 would undermine the deliberate staging framework set through the PC17 process. That framework was specifically designed to ensure orderly development aligned with actual market demand, avoiding premature release of additional capacity.
>
> Retaining the current Appendix S1 triggers, rather than adopting a premature 2026 date, ensures certainty and consistency for landowners, while protecting the integrity of the district's industrial land staging strategy.

19. While Kama Trust shares those concerns, it is realistic about the extent of adverse effects arising from accelerating the land staging strategy, given Area 7 occupies approximately 16 ha of land. So while it seeks to maintain the land release sequence and timing to avoid effects associated with oversupply of industrial land, its key concern relates to the potential under proposed Rule 15.4.2.XX for development to

[3] Market Economics Report Memo 15 September 2025, Appendix 3 to s 42A report.

proceed in Area 7 ahead of completing the roading infrastructure within Area 6. This outcome will generate adverse transport effects if access is instead gained via Peake Road. As the s42A report notes, *avoiding vehicle access from Peake Road is a key requirement and outcome of the Hautapu Industrial Structure Plan.*

20. To avoid this outcome, Kama Trust supports the architecture of the ODP trigger, which has development of Area 7 held back until Area 6 has reached 80% development (i.e. 80% of the developable land area is the subject of s.224 certificates) or by 31 March 2030, whichever occurs sooner.

21. This is because the key transport infrastructure that will enable access to Area 7 will be delivered via its subdivision of Area 6. As Mr Moran and Mr Boyd will explain, subdivision consent for Area 6 has been granted in two stages. Stage 1 comprises one single lot, comprising approximately 10% of the land within Area 6, and title has issued. Development of Stage 2, for the balance of Area 6, has commenced. Under Stage 2, Road 4 (Lot 101) is created and must vest in Council. Without it, s 224 certification cannot be secured.

22. Accordingly, the 80% development threshold cannot be achieved without Road 4 vesting in Council. As Mr Moran states in his evidence, the additional proposed trigger (when Road 4 has been vested in Council as required by Rule 15.4.2WW) is therefore redundant.

23. Similarly, proposed rule 15.4.2WW is also redundant. As proposed, it provides:

> **Rule 15.4.2.WW**
>
> The first subdivision of Area 6 for industrial purposes must vest in Council the entire length of the proposed road between Hautapu Road and Area 7 shown on the Hautapu Structure Plan as "Road 4".

24. This moment has already passed. The first subdivision consent for Area 6 has been granted, and it authorises subdivision in two stages, with the vesting of Road 4 required under Stage 2. This rule is unnecessary, and like its linked proposed trigger in Rule 15.4.2.XX(b), should be excluded from the PC33 provisions. If it is retained, it must be edited to reflect the existing staged subdivision plan.

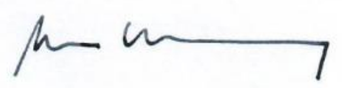
CONCLUSION

25. The Kama Trust has never opposed Area 7 becoming a live industrial zone. It simply seeks that it occur in accordance with Council's settled land release strategy, and supported by the necessary technical and planning inputs.

26. Kama Trust's development of Area 6 is advancing well, and will be completed in the next few years. On completion, once s 224C certification is completed, and titles issue, Road 4 will vest in Council, and developers within Area 7 will take the benefit of a new road connecting Area 7 to the wider transport network. The 2030 backstop date is conservative, and leaves plenty of runway for this to occur.

27. The rule works. Don't fix what isn't broken.

Dated 30 October 2025



____

L F Muldowney

Counsel for Kama Trust