

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Proposed Plan Change 11 to the Waipa District Plan –
Bardowie Industrial Precinct

OPENING SUBMISSIONS OF COUNSEL FOR BARDOWIE INVESTMENTS LIMITED

Dated: 19 November 2018

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Introduction

“Uniting the people of Waipa for progress while sustaining the environment.”

1. This is the vision statement for Waipa set out in the Waipa District Council (Council) Waipa 2050 Growth Strategy. It succinctly captures and emphasises the interlinked concepts of people, being united for the common purpose of achieving progress, while ensuring the sustainable management of the environment.
2. Proposed Plan Change 11 (PC11) by Bardowie Investments Ltd (Bardowie) takes this vision from simply being words on a page, and makes it a reality.
3. What is proposed is the single biggest and most transformative industrial land use project in Waipa’s recent history. One that will further enhance Waipa’s reputation as the home of champions, by extending that reputation beyond the sporting arena, and into the fields of manufacturing and technology. It will set new standards for industrial land use in New Zealand, and with its strategic location adjacent to the Waikato Expressway, it will become a landmark that Waipa can be proud of.
4. Who is Bardowie? Bardowie takes its name from the original farm land which is the subject of the plan change. Bardowie is a recently formed company which is owned and controlled by Mr Mitch Plaw, who is a major shareholder and director of APL Ltd (APL), New Zealand’s largest manufacturer and exporter of aluminium windows and doors, which produces New Zealand’s popular window brands Altherm Window Systems, First Windows and Doors, and Vantage Windows and Doors.
5. APL is New Zealand’s market leader in this high-value technology driven sector, operating an on-site aluminium extrusion plant (INEX), surface finishing plants (Colour Works for powdercoating and FINEX for anodising),

a manufacturing facility (ALPAC), a plastic profile extrusion plant (PPL) and a distribution fleet (APL Direct) servicing its manufacturers nationwide.

6. APL currently operates from a number of separate industrial sites at Te Rapa, where it has been located since its inception in 1971. APL has had and continues to experience exceptional growth. It's vision for the future requires a single site to accommodate a significantly expanded and consolidated manufacturing operation. As a proudly Waikato based business, it is committed to remaining in the Waikato and has examined all available opportunities. After an extensive due diligence process it has determined that Hautapu is the perfect fit in terms of scale, location, infrastructure and servicing, and the ability to create a significant connection with its local community.
7. APL's chief executive, Craig Vincent, will provide evidence of APL's history, and its aspirations, vision and development philosophy for its future site at Hautapu. Mr Vincent will highlight APL's commitment to its local community, and to the creation of a state-of-the-art industrial precinct at Hautapu, and will also highlight APL's strong emphasis on well-being, both at an individual and community level.
8. Bardowie is confident that Council will agree that its vision for the future of Hautapu delivers on Council's overarching vision for Waipa in creating a place where people and business can grow and prosper while enhancing the existing environment.

The Bardowie Plan Change

9. In order to achieve its aspirations at Hautapu, a change is required to the Operative District Plan (ODP). The ODP clearly signals an intention to enable the expansion of industrial land uses at Hautapu. The recent Plan Change 6 provides a structure plan for the Hautapu industrial area west of

Victoria Road, which includes an extension of the deferred industrial land supply to the area adjoining Peake Road. That land is a mixture of green fields and brownfield industrial development and due to limited land availability, it cannot accommodate Bardowie's requirements.

10. The area to the east of Victoria Road provides a better opportunity for Bardowie, however the current allocation of 30 ha of deferred industrial land is also insufficient to meet the long-term requirements of Bardowie. This land is contained within the C10 growth cell which has recently been confirmed in the decisions version of Plan Change 5. The inclusion of the C10 growth cell in the ODP signals an intention that the land within the growth cell is to be used for industrial purposes. The C10 growth cell incorporates 162 ha of land in total, which includes the 30 ha of currently deferred industrial land, while the balance of approximately 132 ha of land within the C 10 growth cell is zoned Rural.
11. PC11 seeks to enable or "uplift" the 30 ha of deferred industrial land, and rezone a further 26.7 ha of land within the C 10 growth cell from rural to industrial zone. This would create a total industrial zone parcel of 56.7 ha within the C10 growth cell immediately to the east of Victoria Road and north of State Highway 1 (plan change area). The plan change area will be sufficient to meet the long-term requirements of Bardowie, and enable a range of further industrial and complementary land use activities to co-locate alongside the APL manufacturing headquarters.
12. Having established the industrial zoning across the plan change area, PC11 then incorporates the following key characteristics;
 - a) the provision of 5.5 ha for a "Campus Hub" which will provide an area for visitor accommodation, conference facilities, healthcare and childcare facilities, research and development, and a small retail offering serving the localised needs of the workforce;

- b) the implementation of a specific set of urban design guidelines which will produce an outstanding level of high quality urban amenity;
 - c) removal of the existing “motorway service centre area” and deferred zone rule mechanisms in the ODP;
 - d) amendments to the policy and activity status provisions specific to the plan change area;
 - e) minor amendments to the existing industrial zone rule mechanisms controlling noise and signage within the plan change area;
 - f) specific staging conditions for development across the plan change area including integration with the provision of critical infrastructure.
13. The proposed staging mechanisms for the development of land within the plan change area is a critical element of PC11 as it is the key mechanism to ensure that land use is staged and sequenced in a manner which integrates with the provision of infrastructure.
14. Industrial Node 1A will be available for development from 1 December 2018. This will be the location of the first construction phase for APL. Industrial Node 1B is the location of Shoof International Ltd and the balance of this area will be able to be developed as soon as servicing is in place.
15. Industrial Node 2 will not be released for development until 31 March 2021. This will enable the further expansion of the APL manufacturing site, and initial development of the Campus Hub.
16. Finally, Industrial Node 3, which is the remainder of the plan change area will not be released for development until 31 March 2024, which will align

with the provision of the further transport infrastructure necessary to serve the overall plan change area.

17. The timing of this staged land release is also designed to enable Fonterra sufficient time to progressively relocates the parts of its spray irrigation activities which are currently operating within the plan change area.

The sub- regional strategic land use context

18. Pursuant to section 75(3)(c) of the resource Management act 1991 (RMA), Council is required to ensure that the ODP give effect to the Waikato Regional Policy Statement (RPS).
19. Under the RPS, Hautapu is recognised as a Strategic Industrial Node.¹ The RPS recognises that between 2010 and 2061, the total allocation of industrial land at Hautapu should stand at 96 ha. The Bardowie plan change would take the total allocation of industrial land at Hautapu beyond that threshold.
20. However, the RPS recognises that there is a need for flexibility with these policy thresholds, and under the RPS Council is entitled to zone industrial land at Hautapu in excessive of that allocation, provided doing so it does not undermine the role of any other Strategic Industrial Node identified in Table 6 – 2 of the RPS.
21. While strategic land use planning is predictive and forward looking, it can only ever offer a framework within which the dynamic forces of population growth operate. That the RPS enables this flexibility is unsurprising. The RPS industrial land allocation figures were based on the Future Proof Sub

¹ RPS table 6 – 2

Regional Growth Strategy of 2009, which now requires updating after nearly a decade, and is currently under review.

22. Bardowie's independent planning expert Mark Chrisp will step through these planning matters and confirm that PC11 can meet the alternative land release criteria set out in the RPS. Council's s42A report also confirms that the criteria is met.
23. In addition to the current Future Proof review there is the new and emerging sub regional strategic land use study known as the *Auckland to Hamilton Corridor Plan* (Corridor Plan). Despite what the name might suggest, the Corridor Plan is an analysis of the land use opportunities and constraints extending from Papakura in the north to Cambridge and Te Awamutu in the south. Council is a participant in this study, along with the other local authorities along the corridor including Auckland Council, Waikato councils, iwi, and the Crown represented by a range of entities including the Ministry of Housing and Urban Development and various crown agencies.
24. While at an early stage, the Corridor Plan recognises that the corridor is New Zealand's most significant transport and river corridor, with 17 communities between Papakura and Cambridge, and connecting two of New Zealand's fastest growing urban areas.
25. Cambridge provides the critical anchor point to the south of the corridor, and is recognised as having significant development potential. Hautapu is a key component of that potential, and is recognised as holding the potential to increase the pace and scale of development beyond the current planning or market expectations.
26. The Corridor Plan seeks to establish a framework for leveraging the key infrastructure assets along the corridor to their maximum potential. Bardowie's vision for Hautapu is 100% aligned to that corridor vision. By

enabling PC11 Council will be taking an important step in realising the full potential of the corridor.

27. Bardowie will present expert economic evidence from Mike Copeland. Mr Copeland will explain the economic benefits arising from the Bardowie development including an estimated total works construction costs of \$400 million, with approximately 43 on-site jobs and wages and salaries of approximately \$3.2 million per annum, and expenditure on goods and services within the local Waipa District businesses estimated at \$4 million per annum.
28. Mr Copeland will explain the *multiplier effect* and how these estimates convert to approximately 65 full-time equivalent additional jobs for local Waipa District residents, \$4.8 million per annum and additional wages and salary, and \$6 million per annum and additional expenditure with local businesses. These construction impacts are likely to arise during the five-year period 2019 to 2023, and are conservatively estimated in that they do not take account of any developments within the plan change area other than the APL facilities.
29. Mr Copeland will explain how throughout the later operational phase, APL's workforce is expected to average around 460, with wages and salaries of around \$26.5 million per annum. Again applying the *multiplier effect* this will translate into direct and indirect impacts of approximately 690 full-time equivalent jobs for local Waipa residents, and \$39.8 million per annum in additional wages and salaries. Mr Copeland will confirm that due to the tight supply situation with respect to industrial land, there will be little or no delayed utilisation of infrastructure already installed elsewhere. That means that the APL space left behind at Te Rapa will be filled by an alternative activity, which will generate its own level of productivity.

30. The net productivity effect from a sub - regional perspective will be substantial, and represent an outstanding leveraging of the corridor infrastructure.

Submissions received

31. Council publicly notified PC11 on 10 August 2018. It received 23 submissions and 7 further submissions. Bardowie has been proactive in meeting with submitters and seeking to achieve resolution of outstanding matters raised in the submissions, and as will be apparent from the number of submitters who no longer wish to be heard, there has been a high degree of collaboration between Bardowie and the submitters.
32. As a consequence of those discussions there are a number of proposed amendments to the originally notified version of the plan change. These amendments will be identified and discussed by Bardowie's expert planning witness Ms Abbie Fowler, who will examine the proposed amendments and demonstrate how those amendments meet the requirements of the evaluation criteria prescribed in section 32 of the Resource Management Act 1991 (RMA)
33. Dealing with some of the key themes raised in submissions, and now resolved, the first significant issue raised in submissions by Future Proof, Waikato Regional Council and Hamilton City Council was the degree of consistency with the 'land release' provisions in the RPS relating to the supply of industrial land. As a result of various meetings and correspondence, including further analysis of the proposal in relation to the 'alternative land release' provisions in the RPS, these three submitters have confirmed that they are satisfied that the plan change is in accordance with the requirements of the RPS relating to the land release provisions.

34. The most commonly raised issue in submissions was the scale of the proposed Campus Hub and the nature and extent of activities that could occur within it. The Campus Hub allows for the establishment of a range of activities that will support the health and wellbeing of people working within the Bardowie Industrial Precinct and the wider Hautapu Industrial Area. This includes a wellness centre, a childcare facility, a café, and a tavern.
35. Another key aspect of the Campus Hub is the ability to develop a motel and a conference centre. In addition to serving the needs of APL, the development of a high-end motel and a conference centre will address a gap in the Cambridge market which cannot realistically be developed within the Cambridge CBD due to the lack of available land.
36. Submitters raised concerns about the nature and extent of these non-industrial activities. In response to these concerns the Campus Hub has been reduced from 16.3 ha to an area of 5.5 hectares located in the western part of Node 2 along the Victoria / Laurent Road frontage. A number of changes have also been made to the rules relating to activities within the Campus Hub. The Cambridge Chamber of Commerce and the Cambridge Community Board are now fully supportive of the plan change including the provisions relating to the Campus Hub.
37. Through a collaborative process, Bardowie and KiwiRail have reached agreement in relation to approval for the southern intersection to cross the designated railway corridor that runs between Victoria and Laurent Roads. The key aspects of a Licence to occupy the railway corridor have been agreed with KiwiRail and approved by Council who will be the Licensee. As a result, Bardowie does not expect there to be any problem concluding the Licence agreement which will include KiwiRail's approval under s.176 of the RMA to accommodate the agreed intersection crossing within the KiwiRail designation.

38. Early engagement with tangata whenua was a priority action for Bardowie in relation to the development of the plan change. This engagement has involved correspondence, a number of meetings, a karakia prior to the commencement of earthworks, and cultural monitoring of the earthworks stripping stage of the development together with supervision by an Archaeologist.
39. Bardowie is currently negotiating the terms of a Memorandum of Understanding which documents the agreed nature of the ongoing relationship between it, Ngāti Koroki Kahakura and Ngāti Haua.
40. Meetings and discussions have also been held with representatives of Waikato-Tainui. The most recent discussions have confirmed that Waikato-Tainui will support the position reached with Ngāti Koroki Kahakura and Ngāti Haua.
41. On this basis, Bardowie is respectfully of the understanding that it has satisfactorily addressed all of the issues raised in the submission by Ngāti Koroki Kahakura and the further submission by Waikato-Tainui that appropriately relate to the plan change.

Henmar Trust Submission

42. The Henmar Trust owns land to the immediate north of the plan change area. It lodged a comprehensive submission and further submission addressing almost all aspects of the plan change. Bardowie representatives have met with Mary and Louise Bourke, who are the representatives of the Henmar Trust, on a number of occasions to discuss and to try and resolve the issues raised in their submissions.
43. It is positive that the Henmar Trust supports the Bardowie Industrial Precinct and has clearly signalled a desire that its own land holding which

is located in the north-western part of the C10 Industrial Growth Cell should be able to be developed for industrial purposes.

44. It appears however that there are some matters which the Henmar Trust remain concerned about, particularly in relation to the long-term master planning and provision of infrastructure associated with its land holding.
45. Bardowie has arranged for Council to undertake a “Master Planning” process to investigate and determine the servicing requirements of the entire extent of the C10 Industrial Growth Cell, including the land owned by the Henmar Trust. This will confirm the nature and location of roading and servicing connections (and capacity) and allow the costs of servicing to be fairly apportioned between all landowners in the growth cell. Bardowie understands that Council will seek to engage with the Henmar Trust as part of this Master Planning process, which will follow this plan change process.
46. From a transportation perspective Bardowie has been in discussions with Council and the New Zealand Transport Agency in relation to the northern intersection into the Bardowie Industrial Precinct. In that regard, the design of the intersection has been undertaken in a manner to cater for the entire C10 Industrial Growth Cell, including the Henmar Trust land. In addition, in response to the submission by the Henmar Trust, Bardowie has included on the Bardowie Industrial Precinct Structure Plan an indicative roading connection into the Henmar Trust land to the north which is subject to the the Master Planning process confirming where roading and other servicing connections should be located.
47. The Henmar Trust has raised concerns and sought amendments in relation to the planning provisions that relate to the interface of the Bardowie Industrial Precinct and the land to the north and east which remains, at least in the short term, Rural Zone. These points of submission indicate a need to preserve ‘rural amenity’, despite the Henmar Trust’s position that its land should be re-zoned to Industrial Zone.

48. Notably, no such concerns have been raised by Fonterra, being the adjoining landowner to the east and north-east of the Bardowie Industrial Precinct and, therefore, any such controls introduced to address the concerns raised by the Henmar Trust should only relate to the common boundary between the Bardowie Industrial Precinct and the land owned by the Henmar Trust. Bardowie has proposed a 5m wide screen planting along the common boundary of the Bardowie Industrial Precinct with the Henmar Trust from the point that Node 3 is developed for as long as the Henmar Trust land is zoned Rural. Mr Chrisp and Ms Fowler will provide detail of the intended screening and buffer treatment.
49. A further unresolved aspect of the submissions by the Henmar Trust is the request that features such as solar panels and telecommunication facilities on roofs be screened. These suggestions are strongly opposed by Bardowie. The installation of solar panels is consistent with the National Policy Statement for Renewable Electricity Generation 2011. Telecommunication facilities typically require a line of sight and will not function optimally if screened. Mr Chrisp will give evidence dealing with the environmental effects of such installations and demonstrate how any perceived adverse visual impacts are appropriately mitigated. He will demonstrate how, from a design perspective, the quality of the development within the Bardowie Industrial Precinct will exceed all other industrial developments in the Waipa District.
50. In this respect, the adverse amenity effects which are of concern to the Henmar Trust simply will not arise. Mr Chrisp's expert planning analysis is that while rural amenity will be changed, mostly in terms of visual effects, the effect will not be 'adverse' given the quality of development in the precinct and will ultimately be entirely compatible with the future industrial zoning of the land owned by Henmar Trust the future.

Section 42A Report

51. In response to matters raised in the submissions, the section 42A report recommended a number of changes to the planning provisions within PC11. Bardowie's expert planners have since met twice with Todd Whittaker and Wayne Allan, the section 42A author and planning representatives of Council, to discuss and further edit the changes to the planning provisions.

52. Ms Fowler will discuss the changes that have been made and the rationale for those changes. Apart from one or two minor matters concerning the planning provisions relating to the campus hub, the respective planning experts have reached full agreement in relation to the detail of the planning provisions in the plan change.

The statutory context

53. Council's decision-making in respect of this plan change is governed by the framework set out in the RMA. Section 31 of the RMA provides;

31 Functions of territorial authorities under this Act

- (1) Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:
 - (a) the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:
 - (aa) the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district.

54. The purpose of the RMA is set out in section 5 and provides;

5 Purpose

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.
- (2) In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—
 - (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
 - (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
 - (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

55. Pursuant to section 72 of the RMA, the purpose of the preparation, implementation and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of the RMA.

56. In deciding whether to support any plan change, Council must do so after considering an evaluation report prepared in accordance with section 32 of the RMA which provides;

32 Requirements for preparing and publishing evaluation reports

- (1) An evaluation report required under this Act must—
 - (a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and
 - (b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—

- (i) identifying other reasonably practicable options for achieving the objectives; and
 - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and
 - (iii) summarising the reasons for deciding on the provisions; and
- (c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.
- (2) An assessment under subsection (1)(b)(ii) must—
- (a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—
 - (i) economic growth that are anticipated to be provided or reduced; and
 - (ii) employment that are anticipated to be provided or reduced; and
 - (b) if practicable, quantify the benefits and costs referred to in paragraph (a); and
 - (c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.


57. That section 32 report was prepared by Bardowie and provided to Council in support of this plan change application. As indicated, since notifying the plan change, and as a consequence of the collaboration between Bardowie and the various submitters and Council's 42A author, a number of amendments to PC11 are now recommended. These amendments are required to be the subject of a further evaluation pursuant to section 32AA of the RMA. Ms Fowler has prepared that further evaluation and will present the evaluation as part of her evidence.

The evidence for Bardowie

58. In support of its proposal, Bardowie will present evidence from the following witnesses:

- a) Craig Vincent; Mr Vincent is the Chief Executive of APL Ltd. He will give evidence detailing APL and its owner's track record in the Waikato, as developers and members of the community, and will set out the vision for the Bardowie industrial precinct.
- b) Geoff Laurent; Mr Laurent is the owner and operator of Shoof International Limited. His business is located within the plan change area and will give evidence supporting the overall vision for the Bardowie industrial precinct.
- c) Mark Chrisp; Mr Chrisp is an independent planning consultant. He has led the plan change process and will give evidence detailing the proposal, the consultation and submitter engagement and outcomes, and provide an overall evaluation of the plan change.
- d) Mike Copeland; Mr Copeland is an independent economic consultant. He will give evidence on the economic benefits arising from the plan change.
- e) Liam McCaffrey; Mr McCaffrey is a civil engineer. He will give evidence on the engineering and servicing aspects of the plan change.
- f) Alastair Gray; Mr Gray is a transportation engineer. We will give evidence in relation to the roading and transport infrastructure aspects of the plan change.
- g) Abbie Fowler; Ms Fowler is an independent planning consultant. She has worked with Mr Chrisp in the preparation and processing of the plan change. She has prepared and evaluated the various proposed amendments to the plan change. She will give evidence in relation to those amendments and her evaluation.

Dated 19 November 2018

A handwritten signature in black ink, appearing to read 'L F Muldowney', written on a light-colored rectangular background.

L F Muldowney

Counsel for Bardowie Investments Ltd