

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

CLOSING SUBMISSIONS OF COUNSEL FOR BARDOWIE INVESTMENTS LIMITED

Dated: 23 November 2018

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Introduction

1. These closing submissions address the various additions and amendments to Plan Change 11 (PC11) arising out of further caucusing and discussions between the parties since the conclusion of day one of the hearing on 19 November 2018, and also addresses matters arising out of the presentation of Mr Whittaker's evidence this morning in support of the section 42A report.
2. At the conclusion of day one of the hearing the Chair of the hearing committee, Councillor Thomas, requested that the representatives for Bardowie Investments Ltd (Bardowie), Council's planners, and Louise and Mary Bourke meet to attempt to resolve the various outstanding matters raised in the submissions and evidence presented on behalf of the Henmar Trust.
3. The parties were tasked with identifying the matters they could resolve, and how, and identifying those plan provisions that remained in dispute, and why.
4. The parties met for approximately 4 hours on 20 November 2018. That meeting was held in good faith and each party brought a very positive approach to the discussion. As a result of the good work undertaken, and the willingness to find areas of compromise all round, a comprehensive agreement has been reached, which resolves all matters raised in the Henmar Trust submission, and leave no matters remaining in dispute. A copy of the record of settlement reached between Bardowie, the Henmar Trust and Council is set out as **Attachment A**.
5. Bardowie wishes to acknowledge on record the positive approach taken by Mary and Louise Bourke and looks forward to working with them as neighbours into the future.

6. Bardowie also wishes to acknowledge on record the pro-active leadership and management of Council's lead planner in this process, Wayne Allen. Mr Allen has led an extremely efficient process, has facilitated valuable engagement with Council and other participants, and has sought to identify planning solutions to the range of challenges a project of this nature inevitably encounters during the plan change journey. Bardowie is grateful for that engagement.

Further Amendments to PC11 arising out of Henmar Trust discussions

7. As part of the presentation of evidence by Ms Fowler on 19 November 2018, the hearing committee was presented with an updated version of PC 11 which took account of the various changes to the notified version of the plan change which had arisen in response to submissions.
8. As a consequence of the agreements reached between Bardowie, the Henmar Trust, and Council at the meeting held on 20 November 2018, further amendments to PC11 are now recommended. Bardowie has prepared an updated version of PC11, including the updated Bardowie Industrial Precinct Structure Plan. Set out as **Attachment B** is a copy of the revised Structure Plan. A tracked change version of PC11 which incorporates these further amendments is tabled by Bardowie as part of these closing submissions.
9. In accordance with the requirements of section 32AA of the Resource Management Act 1991 (RMA) these further amendments are required to be the subject of a further evaluation. Section 32 AA provides;
 - (1) A further evaluation required under this Act—
 - (a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the **changes**); and
 - (b) must be undertaken in accordance with section 32(1) to (4);and

- (c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes;

10. As part of the presentation of her evidence on 19 November 2018, Ms Fowler presented a section 32AA evaluation which addressed the changes which were made to PC 11 between notification and hearing. Again, to support the final version of PC11 which is presented today, Ms Fowler has prepared a further updated section 32AA evaluation which is now tabled by Bardowie in support of the final version of PC 11.

Matters arising from section 42A report

11. Bardowie wishes to acknowledge the positive approach taken by Council in its section 42A report, and in particular the acknowledgement by Mr Whittaker today of the significant environmental benefits arising from PC 11.
12. As noted in the evidence of Mr Whittaker at paragraphs 30 and 35;
 30. Taking into account the additional evidence and input from Council staff, I am satisfied that the proposed amendments to the plan change provisions (including the agreed amendments from the Henmar Trust submission) provide an appropriate and efficient set of plan rules provisions and that these will give effect to the objectives of the District Plan, the higher order planning instrument, and the sustainable management purpose of the Resource Management Act 1991.
 35. I support Plan Change 11 and recommend that this be approved by the Hearings Panel in accordance with the final amendments outlined in this statement.
13. Accordingly, based on this evidence there are no planning matters arising. There are however a number of relatively minor additional matters which Bardowie wishes to address.

Stormwater, waste water and water plans

14. In terms of stormwater infrastructure, Mr Whittaker notes at paragraph 24 in his evidence that Bardowie has undertaken to update the set of plan provisions including the structure plan, stormwater plan, waste water plan and water plan to reflect the agreed outcomes. While it is correct, it is important to clarify the timing of those amendments.
15. Bardowie's water infrastructure expert, Mr Liam McCaffrey, has reviewed the changes to PC 11 including the final version of the Structure Plan. Mr McCaffrey has prepared a brief supplementary statement of evidence which is tabled as part of these closing submissions. Mr McCaffrey confirms in his supplementary statement that *none of the changes have any impact on the analysis and conclusions reached in the various engineering reports which were prepared and submitted in support of PC 11*. Mr McCaffrey confirms that the plans referred to at paragraph 24 of Mr Whittaker's statement of evidence are those that are included within Appendix 2 of the Water Assessment Report prepared by Harrison Grierson.
16. These plans are not part of the provisions of PC 11 to be inserted into the ODP, but will be finalised and confirmed at the detailed design stage and approved by Council prior to construction. On this basis there is no need or practical requirement for updated plans to be provided to Council before approval of PC 11.

Campus Hub

17. In his evidence Mr Whittaker confirms Council's planning support for the Campus Hub, stating;
 18. Council planning staff fully support the concept of the Campus Hub and we also recommended recognition within the objective

and policy framework that the future activities will not necessarily be linked to the industrial activities in the precinct. We share the vision set out in the evidence of Mr Vincent and Mr Chrisp that the Campus Hub will allow for the establishment of a range of activities that will support the health and welfare of people working within the Bardowie Industrial Precinct and the wider Hautapu Industrial area and also cater for a motel and a conference centre.

18. Mr Whittaker also notes at paragraph 20 of his evidence that;
 20. The Hearings Panel will need to consider whether the appropriate balance has been achieved in terms of efficient rule mechanisms and certainty in terms of the type and nature of future activities given that the concept master plan will have no status in terms of the District Plan provisions.
19. Bardowie is extremely confident that the appropriate balance has been achieved in PC11 between an efficient rule mechanism, and one which provides certainty as to the type and nature of future activities within the Campus Hub.
20. The potential adverse environmental effects arising from the campus hub can be broken into two broad categories; first, localised or on-site effects, and secondly, effects which are more widely felt, such as impacts on the Cambridge CBD.
21. Dealing with the on-site effects, the overall quality, character and amenity which is going to be provided within the Campus Hub will be outstanding. Council can be confident that the plan provisions within PC11 will ensure this outcome.
22. Beginning with Objective 7.3.4 and supporting Policies 7.3.4.1A and 7.3.4.5A, PC11 sets the overall objective and policy framework for ensuring that the requirements of the Urban Design and Landscape Guidelines for the Bardowie Industrial Precinct Structure Plan. Those Urban Design and Landscape

Guidelines are set out at Appendix S 19 of PC11. A revision of those guidelines is a helpful reminder of the world-class urban amenity which PC11 sets as a baseline requirement for any development.

23. These objectives and policies are then reinforced through the rules, and in particular the performance standards set out in Rule 7.4.2 which apply to all permitted, controlled or restricted discretionary activities, and further reinforced through the assessment criteria set out in Section 21.
24. Accordingly, Council can be confident that the planning framework established under PC11 strikes the appropriate balance between providing the developer with a degree of flexibility as to the final design and layout of the Campus Hub and industrial precinct overall, while establishing a set of overarching urban design requirements which must be adhered to.
25. Dealing with off-site effects, Council can be assured that with the fine tuning of the campus hub provisions, any potential adverse effects on the function and vitality of the Cambridge CBD will be avoided.
26. The protection of the Cambridge CBD is assured through new Objective 7.3.4 (g) which provides that development of the Bardowie Industrial Precinct Structure Plan Area occurs in a manner that *enables within the Bardowie Industrial Precinct the development of a Campus Hub that avoids or mitigates any actual or potential adverse effects on the commercial hierarchy of the Cambridge Central Business District.*
27. This new objective is supported by new Policy 7.3.4.2A which provides;
 - To enable the development of a campus hub within the Bardowie industrial precinct that;
 - (a) consists of appropriately scaled retail activities and commercial services; and/or
 - (b) services the employees and the business needs of the Bardowie industrial precinct; and/or
 - (c) is consistent with the provisions of the Bardowie industrial structure plan;

any activities within the campus hub shall not impact the function and vibrancy of the primary commercial centre of Cambridge.

28. Generally the land use activities most likely to have a potential effect on the function and vibrancy of the Cambridge CBD are office activities and retail activities. Both of these activities are significantly constrained and controlled within the Campus Hub.
29. Office activities are permitted where those offices are ancillary to the industrial uses. This is an existing feature of the ODP. Any further offices within the campus hub are a restricted discretionary activity and cannot occur without a resource consent. As a restricted discretionary activity, any resource consent application will need to demonstrate under section 21.1.7.16A that it will not generate any adverse effects on the functional vitality of the Cambridge CBD. In this way, Council remains in complete control of the nature and extent of any additional offices in the Campus Hub.
30. Retail activities within the Campus Hub are extremely restricted. Apart from retail which is ancillary to industrial land uses and limited to 60m², the total retail within the campus hub is restricted to 400 m² of gross floor area. This is likely to enable one or two large shops, or three or four smaller shops. Any retail activity beyond the total gross floor area of 400 m² is a non-complying activity pursuant to rule 7.4.1.5(h). Again, through these mechanisms Council can remain in complete control of the nature and extent of any additional retail in the Campus Hub.
31. PC11 has also been amended at Rule 7.4.1.2(c) to expressly limit the Campus Hub to one conference facility and one visitor accommodation facility. As Mr Chrisp stated in his evidence, these activities are not currently enabled within Cambridge CBD and could not easily locate within the CBD. They will serve the needs of APL, and also fill a gap in the Cambridge market.¹ Mr Copeland confirms that these activities will not divert activity from the town centre, and

¹ Statement of evidence of Mark Chrisp dated 19 November 2018; paragraph 28

are more likely to contribute additional activity within the town centre by attracting additional visitors to Cambridge.²

Conclusion

- 32. Council can, with confidence, approved PC11. In doing so it will conform with its statutory obligations under the RMA, in particular its obligation to give effect to the single purpose of the RMA, being the sustainable management of the natural and physical resources of its District.

- 33. Bardowie wishes to again thank Council for its efficient processing of this private plan change application, and acknowledge the careful consideration that the hearing committee has given to PC 11.

Dated 23 November 2018



L F Muldowney
Counsel for Bardowie Investments Ltd

² Statement of evidence of market a dated 19 November 2018; paragraphs 27 – 29