

BEFORE THE HEARING PANEL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Private Plan Change 17: Te Rapa North Industrial

**JOINT MEMORANDUM OF COUNSEL ON BEHALF OF HAMILTON CITY COUNCIL
AND FONTERRA LIMITED**

Dated 31 July 2025

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MAY IT PLEASE THE HEARING PANEL

1. On 12 December 2024, Fonterra Limited (**Fonterra**) lodged a private plan change request with Hamilton City Council (**HCC**). Private Plan Change 17: Te Rapa North Industrial (**PC17**) was accepted by HCC on 12 February 2025 and publicly notified on 23 April 2025. The submission period ran until 23 May 2025. 18 submissions were received. The further submission period ran from 24 June until 9 July 2025. Four further submissions were received.
2. The stated purpose of PC17 is to:¹
 - a) Live-zone all Fonterra-owned land and five neighbouring parcels of land currently zoned Te Rapa North Industrial Zone - Deferred Industrial Zone as Te Rapa North Industrial Zone;
 - b) Protect the Te Rapa Dairy Manufacturing Site from incompatible surrounding land use and reverse sensitivity risk; and
 - c) Future proof rail access to the North Island Main Trunk Line.
3. Under s 34A of the Resource Management Act 1991 (**RMA**), HCC has delegated to Independent Hearings Commissioners, Vanessa Hamm and Ian Munro (**Hearing Panel**), the power to hear and make decisions on submissions on PC17.
4. This joint memorandum is submitted to the Hearing Panel on behalf of HCC and Fonterra for the purpose of:
 - a) Identifying preliminary procedural issues; and

¹ PC17: Te Rapa North Industrial, Private Plan Change Request and Assessment of Environmental Effects, Executive Summary, p 7.

- b) Seeking timetable directions for the exchange of evidence and for the hearing of submissions.

PROCEDURAL ISSUES

Late submission

5. One submission was received after the expiry of the submission period. Waikato-Tainui Te Whakakitenga o Waikato (**Waikato-Tainui**) made a submission on 30 May 2025, five working days late. On the basis that no party is prejudiced by the late submission by Waikato-Tainui, neither Fonterra nor HCC oppose the Hearing Panel determining to accept the submission.

Jurisdictional issues

6. The following submitters seek that land that sits outside of the notified PC17 area be rezoned from Te Rapa North Industrial Zone – Deferred Industrial Zone to Te Rapa North Industrial under PC17:

Submitter number	Submitter
3	Shu-Cheng Lo
4	Sam and Alisa Coleman
5	Scott Mathieson
7	Empire Corporation and Porter Group
8	Graeme Boddy
9	Hayden Porter
12	Paul and Gloria Stone
15	Janine Hill
16	Morth Trust Partnership (Rachel McGuire and Stephen Morth)

17	Pebbles Family Trust (Wen Sen Shih and Hsiu-Jung Huang)
18	Waikato-Tainui

7. Many of these submitters have recorded in their submission that they wish to be heard in respect of their submission.
8. As the Hearing Panel will be aware, a submission made under clause 6(1) of Schedule 1 to the RMA must be “on” the proposed plan. The Hearing Panel does not have jurisdiction to consider relief sought in a submission which is not “on” the plan change. However, the High Court has held that incidental or consequential zoning extensions by submission is permissible.²
9. In accordance with the principle of natural justice, Fonterra and HCC consider it appropriate for parties to be provided with an opportunity to address the Hearing Panel at the hearing on the question of whether the rezoning relief sought in each of the identified submissions meets the relevant legal tests and can therefore be considered by the Panel. Accordingly, no preliminary procedural directions are sought to address the jurisdictional issues raised by these submissions. HCC and Fonterra simply wish to bring it to the early attention of the Hearing Panel and submitters as a matter to be addressed as part of the hearing.

EVIDENCE EXCHANGE

10. With the submission period now closed, directions are sought for the hearing of PC17, in particular, to establish a timetable for the exchange of evidence.

² *Palmerston North City Council v Motor Machinists Limited* [2013] NZHC 1290.

11. HCC has allocated three days for the hearing of PC17 to commence on 2 December 2025, with 5 December reserved as an additional hearing day should further hearing time be required. A venue for the hearing will be confirmed by HCC at a later date.
12. The proposed timetable directions for the exchange of evidence are set out below.

DIRECTIONS SOUGHT

13. HCC and Fonterra seek the following directions:
 - a) Fonterra is to lodge any additional or updated Plan Change material with the Hearing Administrator by 4pm, 21 August 2025.
 - b) HCC is to lodge a planning report pursuant to s 42A of the RMA with the Hearing Administrator by 4pm, 11 September 2025.
 - c) Fonterra is to lodge its expert evidence-in-chief with the Hearing Administrator by 4pm, 7 October 2025.
 - d) Any submitters intending to present expert evidence at the hearing are to lodge their expert evidence-in-chief with the Hearing Administrator by 4pm, 30 October 2025.
 - e) Any rebuttal evidence is to be lodged with the Hearing Administrator by 4pm, 20 November 2025.
 - f) If the Panel directs expert conferencing to occur on any particular topic, it will be scheduled in the week of 24 November 2025.
 - g) Any parties intending to present opening legal submissions at the hearing are to lodge their opening legal submissions with the Hearing Administrator by 4pm, 28 November 2025.

- h) While written lay presentations are not required to be exchanged in advance of the hearing, the Hearing Panel strongly encourages pre-circulation of any written lay presentations at least 3 days in advance of appearing to avoid the need to read written material verbatim at the hearing.

Dated 31 July 2025



L F Muldowney / S K Thomas

Counsel for Hamilton City Council



D Minhinnick / M Anderson

Counsel for Fonterra Limited