

**BEFORE THE INDEPENDENT COMMISSIONERS APPOINTED BY THE
WAIMAKARIRI DISTRICT COUNCIL**

IN THE MATTER of Proposed Waimakariri District Plan: Ohoka Rezoning
(Hearing Stream 12D)

AND

IN THE MATTER of the further submission by the Ohoka Residents
Association (further submitter 84) to the Rolleston
Industrial Developments Limited (submitter 160) and
Carter Group Property Ltd (submitter 237) submission to
Rezone land at Ohoka

MEMORANDUM OF COUNSEL FOR OHOKA RESIDENTS ASSOCIATION

29 July 2024

PO Box 4341 CHRISTCHURCH 8140
DX WX11179
Tel +64 3 379 7622
Fax +64 3 379 2467

WYNN WILLIAMS

Solicitor: P A C Maw
(philip.maw@wynnwilliams.co.nz)

MAY IT PLEASE THE PANEL

- 1 The Ohoka Residents Association (**ORA**) wishes to provide additional material following the hearing of submissions and evidence on Hearing Stream 12D (Ohoka Rezoning) for the Proposed Waimakariri District Plan (**PWDP**).
- 2 The ORA presented written legal submissions and oral representations to the Hearings Panel in relation to Hearing Stream 12D on 1 July 2024.
- 3 Following the hearing, the ORA received an Engineering Memorandum prepared by Andrew Congalton, Principal and Senior Environmental Engineer at Kotahi Engineering Studio, dated 23 July 2024 (**Engineering Memorandum**).
- 4 The Engineering Memorandum provides an opinion on the flood modelling used in the assessment of the PWDP a subdivision at Mill Road, Ohoka. The ORA now wishes to file a brief of evidence from Mr Congalton, attaching the Engineering Memorandum.
- 5 The ORA also seeks that Mr Congalton be permitted to attend the engineering expert witness conferencing for Hearing Stream 12D as set out in Minute 31: Expert Conferencing and Next Steps for Hearing Stream 12D. The engineering witness conferencing relates to flooding and Mr Congalton's evidence will contribute to these discussions.
- 6 The information on flood risk contained in the Engineering Memorandum is relevant to the appropriateness of the site at Ohoka for rezoning and development of the kind sought by Rolleston Industrial Developments Limited (submitter 160) and Carter Group Property Ltd (submitter 237).
- 7 The Engineering Memorandum sets out the limitations of the Waimakariri District Council's flood modelling data from 2020¹ and the PWDP modelling (that used the 2020 data). A relevant limitation of the flood modelling identified in the Engineering Memorandum is the lack of local validation assessment for Ohoka. The Engineering Memorandum concludes that "the current modelling should not be relied upon to accurately assess the flood risk for Ohoka".
- 8 Other participants in the hearing process, including the section 42A officers and Council staff, may be prejudiced by the provision of the

¹ This data is the Report by DHI for the Waimakariri District Council *Flood Hazards Models Update: District and Urban and MIKE FLOOD models* dated May 2020.

Engineering Memorandum and Mr Congalton's brief of evidence following the hearing of submissions and evidence on Hearing Stream 12D, as they have not had the opportunity to respond to this material. However, the ORA submits that any prejudice to these persons is outweighed by the relevance and importance of the information in the Engineering Memorandum and Mr Congalton's brief of evidence. Additionally, the parties' experts will have the opportunity to consider the evidence as part of expert witness conferencing (if Mr Congalton is permitted to attend).

- 9 The provision of the Engineering Memorandum and Mr Congalton's brief of evidence following the hearing of submissions and evidence on Hearing Stream 12D will not disrupt the efficient completion of the hearing process. The ORA wishes to provide the Engineering Memorandum and a brief of evidence by Mr Congalton to the Hearings Panel to assist them with making an informed recommendation relating to the proposed rezoning. The Engineering Memorandum and Mr Congalton's brief of evidence will be succinct and will not materially add to the time required for the Hearings Panel to consider the proposed rezoning, nor will Mr Congalton's attendance at expert witness conferencing.
- 10 On this basis, it is submitted that the Hearings Panel should have the benefit of considering the Engineering Memorandum and Mr Congalton's brief of evidence before making a recommendation in relation to the proposed rezoning of Ohoka in Hearing Stream 12D. It is submitted that Mr Congalton's attendance at the engineering expert conferencing will similarly assist the Hearings Panel.

Dated this 29th day of July 2024



.....
P A C Maw
Counsel for the Ohoka Residents Association