

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

IN THE MATTER of Proposed Waimakariri District Plan: Ohoka Rezonings
(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

**LEGAL SUBMISSIONS ON BEHALF OF THE OHOKA RESIDENTS
ASSOCIATION**

1 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)

Introduction

- 1 These legal submissions are presented on behalf of the Ohoka Residents Association (**ORA**), a further submitter (FS84) to submissions by Rolleston Industrial Developments Limited (submitter 160) and Carter Group Property Ltd (submitter 237) (together, the **Submitters**) to rezone land at Ōhoka under the Proposed Waimakariri District Plan (**PWDP**).
- 2 The ORA opposes the rezoning of Ōhoka as proposed by the Submitters, on the basis that the associated intensification is unsuitable for Ōhoka. Ōhoka is a semi-rural community with corresponding character and charm. Furthermore, the proposed intensification and rezoning has previously been considered, and rejected, by the Waimakariri District Council (**Council**) in its decision on Private Plan Change RCP031 (**PC31**) to the Operative District Plan.
- 3 In these legal submissions, the ORA submits that the rezoning proposed by the Submitters will not contribute to a well-functioning urban environment for the purpose of the National Policy Statement on Urban Development 2020 (**NPS-UD**), and, therefore, should not be accepted.
- 4 These legal submissions also address the issue raised by Ms Appleyard in the legal submissions on behalf of the Submitters regarding the Council's reliance on evidence and documents from the PC31 process.¹

National Policy Statement on Urban Development 2020

- 5 The ORA submits that the rezoning of Ōhoka proposed by the Submitters would not contribute to a well-functioning urban environment for the purposes of the NPS-UD.
- 6 The NPS-UD sets out the objectives and policies for planning for well-functioning urban environments under the Resource Management Act 1991. Policy 1 states that planning decisions should contribute to well-functioning urban environments and sets out the requirements for well-functioning urban environments.

¹ Legal submissions on behalf of Carter Group Property Limited and Rolleston Industrial Developments Limited dated 20 June 2024 at [9.1].

- 7 The Submitters acknowledge in their legal submissions that the proposed rezoning must contribute to a well-functioning urban environment in a positive or at least neutral way.²
- 8 The ORA submits that the proposed rezoning will not achieve a well-functioning urban environment as it does not provide good accessibility (as described in Policy 1(c)). Ōhoka is removed from Rangiora and Kaiapoi (the main townships within the Waimakariri District), as well as Greater Christchurch generally, and travel to these locations will still be required, particularly for work.
- 9 There are limited opportunities for public transport connections in Ōhoka, and the distance between Ōhoka and these locations means that active transport is not a realistic option. This also means that the proposed rezoning will not support reductions in greenhouse gas emissions (under Policy 1(e)), as it will perpetuate the reliance on private motor vehicles for travel outside of Ōhoka.
- 10 The increased intensity associated with the proposed rezoning of Ōhoka will likely cause negative impacts on accessibility and greenhouse gas emissions as more people will live in Ōhoka and rely on private motor vehicles for transport to Rangiora, Kaiapoi and Greater Christchurch, notwithstanding the offer to provide a privately operated bus service and park and ride facility. Therefore, the proposed rezoning does not contribute to a well-functioning urban environment. This reasoning is in line with the recommendation of the Independent Hearings Panel on PC31.³

Plan Change 31 evidence

- 11 Ms Appleyard in the legal submissions on behalf of the Submitters has argued that a natural justice issue arises out of the "Council's reliance on evidence and documents from the PC31 process, which are not evidence before the Panel".⁴ The ORA rejects this assertion.
- 12 The rezoning proposed by the Submitters in their submissions on the PWDP are "very similar" to the rezoning sought through PC31.⁵

² Legal submissions on behalf of Carter Group Property Limited and Rolleston Industrial Developments Limited dated 20 June 2024 at [51].

³ Independent Hearing Panel Decision Report for private plan change RCP031 to the Waimakariri District Plan at [97] – [118] and [181] – [234].

⁴ Legal submissions on behalf of Carter Group Property Limited and Rolleston Industrial Developments Limited dated 20 June 2024 at [9.1].

⁵ Officer's Report: Rezoning – Ōhoka Rezoning dated 31 May 2023 at [5].

Furthermore, PC31 and documents relating to PC31 have been brought into the PWDP process through its mention in submissions and Mr Willis' s 42A report.

- 13 Rolleston Industrial Developments Limited (submitter 160), in its submission on the PDP, refers to maps that were used as part of PC31, refers to the Outline Development Plan and associated provisions from PC31 (and requests that these are included in the PWDP), and refers to the change of zoning as requested under PC31.⁶ The ORA also refers to PC31 in its further submission on the PWDP.⁷
- 14 PC31 is also discussed throughout the s 42A report prepared by Mr Willis for Hearing Stream 12D. Mr Willis expressly lists "[t]he decision of the IHP on PC31 and the PC31 Joint witness statement in relation to development constraints dated 17 August 2023" as part of the supporting evidence Mr Willis relied on in supporting the opinions he expressed in the report.⁸
- 15 On this basis, evidence relating to PC31 that has been incorporated into submissions and evidence on the PWDP forms parts of the evidence that the Hearings Panel for the PWDP can consider. Provided the Hearings Panel makes their own conclusions based on this information, no natural justice issue arises.

Conclusion

- 16 The ORA opposes the rezoning of Ōhoka as proposed by the Submitters on the basis that it will not contribute to a well-functioning urban environment for the purpose of the NPS-UD. The ORA submits that material relating to PC31 can be considered by the Hearings Panel as it has been incorporated into material on the PWDP.

Dated this 1st day of July 2024



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

⁶ See the Waimakariri District Council's Proposed District Plan Summary of Submissions by Chapter.

⁷ Further Submission 84 Ohoka Residents Association dated 12 May 2023 at 2.

⁸ Officer's Report: Rezoning – Ōhoka Rezonings dated 31 May 2023 at [21].