

Before an Independent Hearings Panel
Appointed by Waimakariri District Council

under: the Resource Management Act 1991

in the matter of: Submissions and further submissions on the Proposed
Waimakariri District Plan

and: Hearing Stream 12D: Ōhoka Rezoning

and: **Carter Group Property Limited**
(Submitter 237)

and: **Rolleston Industrial Developments Limited**
(Submitter 160)

Memorandum of counsel commenting further on Minute 45
matters

Dated: 12 November 2024

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MEMORANDUM OF COUNSEL COMMENTING FURTHER ON MINUTE 45 MATTERS

1 This memorandum of counsel is filed on behalf of Carter Group Property Limited (Submitter 237) and Rolleston Industrial Developments Limited (Submitter 160) (*Submitters*) pursuant to paragraph 2 of Minute 46 which provides the Submitters with the opportunity to comment further on the matters raised in Minute 45.

Mr Binder's participation in expert witness conferencing

2 At the reconvened hearing for Stream 12D, Mr Binder responded to the concerns set out in the Submitters' legal submissions dated 24 October 2024 regarding possible consultation with other individuals over the drafting of the cumulative transport joint witness statement (*JWS*).

3 The Submitters comment as follows:

3.1 Mr Binder confirmed that he met with Mr Bacon and Mr Buckley on 9 October 2024 (the day before the *JWS* was finalised). Mr Binder also confirmed that he had a conversation with Mr Willis on 10 October before sending through his final amendments on the *JWS*.

3.2 Mr Binder claims that those discussions were limited to 'high-level discussions' about how rules function within the district plan.

3.3 The Submitters remain very concerned about the potential that there was outside influence on the Council's side in finalising the content of the *JWS*, particularly given a lengthy meeting occurred the day before it was finalised and discussions with Mr Willis were had on the day it was finalised. The Submitters are sceptical as to whether either of the meetings on 9 and 10 October were limited to 'high-level discussions' given the *JWS* was imminently about to be finalised.

3.4 The Submitters seek that the Panel regard the views expressed by Mr Binder in the *JWS* with considerable caution.

The DHI review

4 At the reconvened hearing for Stream 12D, Mr Matt Bacon explained that he understood Council had engaged some additional flooding work in the form of a peer review by DHI. He explained that this was done through the Council's asset management team, and not through the Council in its regulatory role for the district plan review. The Chair asked Mr Matt Bacon to make enquiries and come back to the Panel on this matter.

- 5 The Submitters were particularly concerned about the review because on the face of it, it appeared that the work was being done so that it could be provided to the Panel before the end of the district plan review process. This is because:
- 5.1 The DHI email to Mr Throssell noted that they had been engaged by Mr Colin Roxburgh and Mr Chris Bacon, Council experts in the district plan review process.
 - 5.2 The DHI email to Mr Throssell (which was sent on 17 October 2024) noted that the review needs to be completed by the end of October 2024. It is not clear why the Council would have imposed such a tight timeframe on DHI if the work was not to inform the district plan review.
 - 5.3 The civil engineering memo by Kotahi sought to be included as late evidence by the Ohoka Residents Association recommends that DHI be engaged to review the flood model.
 - 5.4 It is not otherwise clear why the Council's asset management team would engage such a review specific to the Submitters' site in Ohoka when at this point in time whether that land is to be rezoned for residential purposes is still subject to a decision by the Panel.
- 6 As noted at the reconvened hearing, the Submitters have no issue with Council's engagement of DHI provided that it does not relate to this process. Mr Throssell, however, will not be entering into discussions with DHI unless and until the purpose of those discussions is made clear to him.

Dated: 12 November 2024



J M Appleyard / L M N Forrester
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Limited and Rolleston Industrial
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