

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 Variation 1

and: Hearing Stream 12D: Ohoka Rezoning

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

and: **Rolleston Industrial Developments Limited**
(Submitter 160 and Submitter 60 in Variation 1)

Memorandum of counsel in response to Minute 23 regarding
excusing Council's urban design and landscape expert from
hearing stream 12D

Dated: 29 April 2024

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**MEMORANDUM OF COUNSEL IN RESPONSE TO MINUTE 23
REGARDING EXCUSING COUNCIL'S URBAN DESIGN AND
LANDSCAPE EXPERT FROM HEARING STREAM 12D**

- 1 This memorandum responds to Minute 23 inviting the submitters to provide their views on the memorandum by the Waimakariri District Council (the *Council*) dated 11 April 2024.
- 2 The Council's memorandum notes that Mr Nicholson is unavailable from the end of May to mid-August, and seeks leave that Mr Nicholson be excused from the hearing and that:
 - 2.1 the Panel provide written questions for Mr Nicholson to respond to via the Right of Reply report or a separate memoranda;
 - 2.2 any expert conferencing (if required) be scheduled for after his return; and
 - 2.3 if required, Mr Nicholson could appear at a later hearing.
- 3 The submitters do not object to Mr Nicholson being excused from attending the hearing and responding to questions asked by the Panel via a Right of Reply report.
- 4 However, the submitters oppose the Council's request that:
 - 4.1 Mr Nicholson be allowed to appear at a hearing on a later date; and
 - 4.2 that any expert conferencing be scheduled after Mr Nicholson's return.
- 5 Given the Council has confirmed that it is not intended Mr Nicholson would provide further evidence, we do not see any reason Mr Nicholson would need to appear before the Panel at some later hearing. A Right of Reply report is the appropriate forum for Mr Nicholson to answer any questions the Panel might have for him.
- 6 With respect to the timing of expert conferencing the submitters have a not unreasonable expectation that any expert conferencing required by the Panel would take place at a date soon after the 1-4 July hearing slot as many of them have other commitments including to the Environment Court and/or overseas commitments themselves that have been specifically organised so they can be available for the hearing and shortly thereafter for expert conferencing.
- 7 In addition, from past experience in relation to PC31 the order in which conferencing occurs can inform, and therefore have an impact on other conferencing, and in particular traffic, economics and

planning and we would not want to see other conferencing having to take place at a delayed date for the purposes of being informed by outcomes of conferencing on Mr Nicholson's particular subject matter.

- 8 The submitters intent is also to have finished expert conferencing well before 31 July 2024 so that it can update the Environment Court processing its appeal against the PC31 decision (ENV-2023-CHC-136) as to the progress of the proposed district plan review. This update centres around progress made with respect to expert conferencing in the current process so as to avoid duplication in the two processes.
- 9 Having said the above the concerns expressed may be entirely moot as it is likely given the history of this matter and what the submitters anticipate will be in Mr Nicholson's evidence due on 29 May 2024 that there won't be much benefit in these particular subject matter witnesses engaging in conferencing after the hearing finishes on 4 July 2024 as their positions are polarised. However that won't be known until the Panel has heard from the experts in early July.
- 10 However as a direction to conferencing on any particular subject matter is a decision for the Panel to make at or after the hearing the submitters do not want to find themselves in a situation where conferencing required by the Panel cannot occur because the submitters' experts are unable to meet after Mr Nicholson's return date, or the submitters oppose delayed conferencing occurring because prejudice arises eg other conferencing has to be delayed and not have signalled the issues earlier.
- 11 We thank the Panel for this opportunity to respond to the Council's memorandum.

Dated: 29 April 2024



J M Appleyard / L M N Forrester
Counsel for Rolleston Industrial
Developments Limited