

**BEFORE INDEPENDENT HEARING COMMISSIONERS
APPOINTED BY THE TIMARU DISTRICT COUNCIL**

UNDER: the Resource Management Act 1991

IN THE MATTER OF: Submissions and further submissions
in relation to the Proposed Timaru
District Plan

**LEGAL SUBMISSIONS ON BEHALF OF 22 THE TERRACE TIMARU LIMITED
(SUBMITTER NO. 202)**

**HEARING STREAM F: HAZARDS AND RISKS (NATURAL HAZARDS ONLY) –
OTHER DISTRICT-WIDE MATTERS**

Dated: 30 April 2025

GRESSON DORMAN & CO

Solicitors

PO Box 244, Timaru 7940

Telephone 03 687 8004

Facsimile 03 684 4584

Solicitor Acting: Georgina Hamilton / Lucy O'Brien
georgina@gressons.co.nz / lucy@gressons.co.nz

May it please the Hearings Panel:

Introduction

- 1 These submissions are presented on behalf of 22 The Terrace Timaru Limited (**Submitter**), and briefly address:
 - (a) The Panel's directions in Minute 30 regarding the evidence and legal submissions filed on behalf of the Submitter for Hearing F; and
 - (b) An issue arising from evidence filed on behalf of KiwiRail Holdings Ltd (**KiwiRail**) concerning the management of reverse sensitivity effects under the Proposed Timaru District Plan (**PDP**).

Panel directions for Hearing F

- 2 On behalf of the Submitter, Counsel thanks the Hearings Panel for its attempts to accommodate the Submitter's recent request regarding hearing attendance in light of the availability of its primary witness, Mr Gresson.
- 3 Should the Panel have any questions arising from Mr Gresson's evidence, or the legal submissions filed on behalf of the Submitter, in relation to Hearing F matters, the Submitter is more than happy to provide answers by way of a written response,¹ in accordance with any directions by the Panel following the conclusion of Hearing F.
- 4 In relation to the Panel's intended site visits on 2 May, Counsel has advised Council's Hearings Administrator that Mr Ross Wells, a director of the Submitter, will be available to show the Hearings Panel the Submitter's property (22 The Terrace) should that be of assistance to the Panel.

Issues arising from KiwiRail evidence

- 5 The Submitter has had the opportunity to review evidence filed by other parties on Hearing F matters. This includes KiwiRail's evidence in relation to the management of reverse sensitivity effects arising from noise and vibration from the railway corridor, specifically its request for increasing the area within which new buildings and extensions to existing buildings for

¹ Minute 30, at [5].

noise sensitive activities would be subject to the PDP's acoustic and ventilation standards (i.e. from 40m to 100m). KiwiRail seeks the inclusion of the following in the PDP, along with consequential changes to various policies and rules in the Noise Chapter:²

- (a) A new 60m Rail Vibration Alert Area Overlay extending outwards from the edge of the rail designation corridor; and
- (b) A new 100m Rail Noise Control Boundary Overlay, also extending outwards from the edge of the rail designation corridor.

6 The inclusion of new Overlays in the PDP was not expressly requested in the KiwiRail's submission on the PDP. Neither Council's opening legal submissions (dated 16 April 2025) nor KiwiRail's legal submissions (dated 16 April 2025) address this issue or related natural justice issues arising from the decisions sought. In relation to the latter, the Submitter is concerned that:

- (a) The decisions sought would affect a much larger number of properties than was the case under the reverse sensitivity provisions in the PDP as notified; and
- (b) Most owners of such properties would not be aware of the requested decisions and their implications for future use of their properties.

7 The Submitters respectfully request that the Hearing Panel give careful consideration to the decisions now sought by KiwiRail in light of:

- (a) The matters identified above; and
- (b) The section 42A reporting officer's recommendation that the decisions sought by KiwiRail in its submission in relation to the requested increase in the area to which reverse sensitivity management of effects from the rail corridor would apply be rejected³.

² Primary statement of evidence of Catherine Lynda Heppelthwaite regarding Hearing F of the Proposed Plan, dated 9 April 2025, at [7.13].

³ Proposed Timaru District Plan s42A Report: Light and Noise, Liz White (dated 24 March 2025), at [8.13.17].

Dated: 30 April 2025

A handwritten signature in blue ink, appearing to read 'J. Hamilton', is enclosed within a light blue rectangular border.

Georgina Hamilton / Lucy O'Brien
Counsel for 22 The Terrace Timaru Limited