

Before the Independent Hearing Panel  
Appointed by the Timaru District Council

Under	Schedule 1 of the Resource Management Act 1991 ( <b>RMA</b> )
In the matter of	Submissions on the Proposed Timaru District Plan
Between	<b>Various</b>
	Submitters
And	<b>Timaru District Council</b>
	Respondent

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**Andrew Willis - Final Reply**

**Strategic Directions, Contaminated Land, Hazardous Substances,  
Stormwater, Energy and Infrastructure, Transport, Drinking Water  
Protection, Natural Hazards, Coastal Environment**

*04.08.25*

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**anderson  
lloyd.**

## **Introduction**

- 1 My name is Andrew Willis. I am the director of Planning Matters Limited (a town planning consultancy). I prepared the s42A reports on the Strategic Directions, Contaminated Land, Hazardous Substances, Stormwater, Energy and Infrastructure, Transport, Drinking Water Protection, Natural Hazards, Coastal Environment, and the Financial Contributions chapters. I confirm that I have read all the submissions, further submissions, submitter evidence and relevant technical documents and higher order objectives relevant to those chapters. I have the qualifications and experience as set out in my s42A reports.
- 2 The purpose of this statement is to provide my final reply in relation to the chapters in respect of which I prepared section 42A reports in accordance with the directions contained in Minute 38.

## **Panel directions – Minute 38**

- 3 Minute 38 directed that I provide a final reply that addresses the following:
  - (a) Not repeat but confirm interim replies where no further changes are recommended;
  - (b) Address any further amendments to the definitions, Strategic Objectives Chapter, any consequential amendments, and any errors;
  - (c) Confirm collective agreement between s42A officers on integration matters;
  - (d) Illustrate any further recommended amendments to the provisions in double underline and double strikethrough;
- 4 I note Panel Minute 38 also sought further clarification from PrimePort and the Stormwater Chapter JWS signatories in relation to Hearing E Stormwater Chapter. I have commented on this matter below.

## **Confirmation of interim replies/ further amendments to provisions**

- 5 I confirm that the recommendations set out in my interim replies still stand, except as identified below. The further amendments I recommend to provisions are as set out below.

*Hearing F - Interim Reply Report and Interim Reply Report Addendum – s42A Natural Hazards Chapter dated 23 June 2025 and 30 June 2025 respectively*

NH-R1, NH-R1A, NH-S1 and overland flowpaths

- 6 In my Natural Hazards (**NH**) Chapter Interim Reply (paragraph 32) I stated that I had recommended changes in response to ECan's submissions (e.g. [183.38]), to remove the express requirement for development to occur outside of overland flowpaths (e.g. NH-R1 PER-2) and replace this with a permitted activity standard that required development to 'not worsen' flooding on another property through the diversion or displacement of flood water. In his evidence (dated 9 April, paragraphs 21 and 22), consistent with ECan's submission, Mr Griffiths also sought to simplify the site-specific flood hazard assessment process (set out in NH-S1) to remove the assessment of whether a site is within an overland flowpath.
- 7 I signalled in my Interim Reply (paragraph 33) that further discussions with ECan and the Council had occurred on this matter and that I considered there are some potential issues with this rule that required further consideration. I indicated that I would provide a final recommendation on NH-R1 and the matter of overland flowpaths in my final reply.
- 8 Consistent with the above, I recommend further changes to the Natural Hazards Chapter to better manage diversion and displacement flooding and overland flowpaths (these amendments are set out in double underline and double strikethrough in the updated chapters contained in the s42A Officers' Final Reply Consolidated Set of Provisions). The changes involve:
- reinstating the notified permitted activity standard (PER-2) in NH-R1 that requires a Flood Assessment Certificate to confirm a site is not located within an overland flowpath, but narrowing the application of this notified standard by limiting it to existing Council stormwater management areas in Timaru, Temuka, Geraldine and Pleasant Point, identified via an additional overlay in the PDP (i.e. the Overland Flowpath Assessment Area Overlay);
  - inserting the Overland Flowpath Assessment Area overlays into the planning maps (see **Appendix B** for these).
  - a minor change to NH-S1 to account for these changes (by adding a reference to the Overland Flowpath Assessment Area Overlay in NH-S1(1)(c));
  - narrowing the reference in amended PER-1 (now renumbered PER-2) from "will not worsen flooding" to "will not create or increase the diversion or displacement of floodwater" to make this standard more precise;

- including an exclusion to this standard for buildings, structures or earthworks authorised by a building consent, to avoid duplication as these matters are also considered under the Building Act; and
  - the deletion of references to overland flowpaths and diversion and displacement flooding from the matters of discretion in other rules (e.g. NH-R4 Matter of Discretion 1 and NH-R5.1 Matter of Discretion 2) as these matters are now adequately captured in NH-R1.
- 9 NH-R1A is the equivalent rule applying in the Port Zone that was developed with PrimePort experts. I have confirmed that the above changes are also acceptable to PrimePort and TDHL in the Port Zone and therefore recommend this rule is similarly amended.
- 10 In terms of a s32AA assessment for these changes, I consider that the reinstatement of the overland flowpath permitted activity standard is covered by the original s32 assessment. The narrowing of its application to existing Council stormwater management areas is required because neither the Council, nor ECan hold sufficiently detailed information on overland flowpaths outside of these areas to provide advice through a Flood Assessment Certificate. It remains appropriate to manage overland flowpath disruption within the existing stormwater management areas as supported by the notified s32. I consider the introduction of the new Overland Flowpath Assessment Area Overlay does not give rise to natural justice issues as it is within the scope of the notified provisions, which previously applied to the whole district, rather than just the identified Council stormwater management areas.
- 11 In terms of narrowing the reference to not worsening flooding in amended PER-1 (now renumbered PER-2) and excluding buildings, structures or earthworks authorised by a building consent from this standard, I consider that these changes simply refine the standard and as such, my s32AA assessment (paragraph 7.27.23 in my s42A report) which supported the changes to PER-1 still apply.

#### Matters of discretion

- 12 ECan [183.27] identified that many of the restricted discretionary assessment matters in the NH chapter address the same matters, but are ordered differently and worded slightly differently and that they should be consistent. In my s42A report (paragraph 7.11.15), I agreed with the submitter that the assessment matters in the NH chapter should be re-ordered and the wording amended for consistency. I did not show those changes in my s42A report as I noted that further changes were anticipated

to the NH chapter which might necessitate still more changes for consistency.

- 13 I have recommended some minor changes to the matters of discretion in response to ECan [183.27], as set out in the updated chapters contained in the s42A Officers' Final Reply Consolidated Set of Provisions (for example to NH-R1 and NH-R3). These principally relate to avoiding duplication.
- 14 In terms of a s32AA assessment, these changes do not result in substantive changes to the matters of discretion and as such I consider the original s32 continues to apply.

#### Coastal Erosion Overlay

- 15 In my Interim Reply (paragraph 24), I stated that the draft Canterbury Regional Policy Statement (draft CRPS) assigns the responsibility for the management of coastal erosion matters wholly to District Councils and that the PDP review proceeded on the basis that this responsibility would be assigned to the District Council, but that unfortunately, the CRPS notification has been postponed and as such the 2013 directions continue to apply.
- 16 I also stated (paragraph 25) that I had explored this matter with ECan, and given the CRPS 2013 direction, the two Councils agreed that the PDP erosion provisions should only apply landward of the RCEP's Hazard Lines, with the Coastal Erosion Overlay used to identify which plan (the PDP or RCEP) applies. I indicated that the updated planning map would be provided as part of the Council's wrap-up reporting.
- 17 In my Interim Reply I recommended an addition to the NH Chapter Introduction that stated that the coastal erosion rules in this District Plan only apply in the coastal erosion areas shown on the planning map, and are landward of the coastal erosion hazard zones shown in the Regional Coastal Environment Plan (RCEP) and that all other coastal erosion planning rules are contained within the RCEP.
- 18 Consistent with the above, the Council has updated its coastal erosion hazard mapping to identify those areas that are within the jurisdiction of the PDP and those that are within the jurisdiction of the RCEP. This mapping is included with the Officers' Final Reply Consolidated Set of Provisions.
- 19 I do not consider a s32AA is required for this amended mapping and approach as this is simply giving effect to a clear jurisdictional requirement in the CRPS.

#### Other matters - Flood Assessment Overlay changes

- 20 Panel Minute 38, dated 24 June 2025 (paragraph 9) addressed proposed mapping changes to the Flood Assessment Overlay for urban and rural areas of the District, setting out a process and timeframe for notification of the updated Flood Assessment Area. This matter was directed to return to the Panel in Hearing I. This mapping will include the changes for the Harvey Norman site addressed in the JWS of Mr Kemp and Mr Throssel (which was included in my s42A NH Chapter Interim Reply Report Addendum dated 30 June 2025).

#### Other matters – consequential changes to other chapters

- 21 In my s42A report (paragraph 7.39.6) I recommended removing the High Hazard Overlay from the Natural Hazards Chapter and planning map in response to Kāinga Ora submission [229.39]. I note that other chapters, including those identified below still refer to the High Hazard Area Overlay:
- The General Approach Chapter
  - SUB-R5
  - PRECX-P1 in the SETZ Chapter
  - SETZ-R1
  - SETZ-R8; and
  - OSZ-R10
- 22 As a consequential change I recommend that these references are removed as Clause 10(2)(b) amendments with the footnote: Clause 10(2)(b) – relating to Kāinga Ora [229.39].

#### *Hearing E – Interim reply dated 27 April 2025 – Stormwater Chapter*

- 23 In Panel Minute 38 (paragraph 7(e)), the Panel noted that the JWS recorded an agreed definition of Impervious Surface and that in my interim reply report and explanation of the changes resulting from the JWS I proposed further changes to this definition as a minor amendment which does not change the meaning of the term. The Panel sought the JWS signatories views as to whether they had any concerns with the further changes I proposed. I understand from correspondence with all the JWS signatories that there are no issues raised with the minor change I proposed.

- 24 In Panel Minute 38 (paragraph 7(d)), the Panel noted that the JWS records that whether the definition of ‘stormwater neutrality’ should include reference to volumes was not agreed by Ms Seaton (for PrimePort and TDHL). The Panel sought:

*“...confirmation from counsel for PrimePort and TDHL that it considers this matter is still outstanding, and whether it is seeking that the definition be amended or deleted. If, the matter remains outstanding can counsel confirm by 5pm 4 July 2025 whether Mr O’Neill, on whom Ms Seaton relies on, was aware of the definition of stormwater neutrality in the Timaru Infrastructure Design Standards referring to volume, as outlined in paragraphs 14 and 15 of Mr Willis’s interim reply, and whether he agrees or disagrees with Mr Willis that having different definitions of stormwater neutrality in the District Plan and the Infrastructure Design Standards creates uncertainty from a technical perspective.”*

- 25 Counsel for PrimePort and TDHL provided a response to the Panel (dated 4 July 2025) confirming this matter was still outstanding and included suggested solutions to the issue.
- 26 Mr Kemp (for the Council) has assessed the submitters’ response (his supplementary evidence is contained in **Appendix A** to this Final Reply). In summary, Mr Kemp agrees with the submitters’ position (set out in Clause 4.4(c) of their response to Minute 38) and supports changing the Plan definition to match the first part of the Infrastructure Design Standards definition (paragraph 8).
- 27 Mr Kemp considers that this approach provides flexibility in how stormwater neutrality is achieved, either through detention and slow release or retention and re-use or a combination of the two, and also supports consistency between the Plan and the IDS (paragraph 9). I note that Mr Kemp (in paragraphs 14 and 15) considers that maintaining a reference to volumetric management of stormwater runoff when considering Stormwater Discharge Certification allows property developers the opportunity to utilise a wider variety of stormwater management solutions and can be more representative of rainfall runoff of native surfaces rather than peak flow management which allows for recovery of reticulated stormwater networks (pipes, open drains, etc.).
- 28 I accept Mr Kemp’s advice on this matter. Accordingly, I recommend that the definition of “stormwater neutrality” is amended, consistent with Mr Kemp’s advice (which in turn is consistent with the technical advice provided by the submitters) as follows:

Stormwater neutrality:

~~means that post-development stormwater runoff rates and volumes do not exceed the pre-development stormwater runoff rates and volumes~~

means the management of stormwater runoff from a site during one or more specific rainfall events to restrict post-development peak flows and/or volumes to pre-development flows and/or volumes.

- 29 The scope for this change is Kāinga Ora [229.4] who sought the deletion of the definition of “stormwater neutrality” and PrimePort [175.23] and Timaru District Holdings [186.9] who submitted that the stormwater neutrality requirement is onerous and impractical for the Port zone.
- 30 In terms of a s32AA assessment, I consider the original s32 continues to apply as this definition change simply provides more flexibility in how stormwater neutrality is achieved, either through detention and slow release or retention and re-use or a combination of the two.

### Integration matters

- 31 In paragraph 6.68.4 of my Hearing E s42A report (dated 11 December 2024) I sought to clarify the relationship between the Transport Chapter rules and the zone rules in response to a submission from Waka Kotahi [143.20] by including a statement in the Rules note identifying specific TRAN rules that took precedence over zone rules. In my Interim Reply (dated 17 April 2025), I recommended a further change to the Transport Chapter Rules note (paragraph 45(e)) to remove TRAN-R6 (Vehicle parking and manoeuvring areas) from having precedence over the zone rules.
- 32 I have discussed the remaining TRAN rules with Council staff and consider TRAN-R7 (Structures, buildings or planting of vehicular access in relation to a road-rail level crossing), and TRAN-R10 high trip generation activities should also be removed, such that they do not take precedence over the zone rules. Complying with the road-rail level crossing requirements should not mean a building or structure need not meet the zone built form standards as well. Similarly, complying with the high trip generation rule should not mean the activity need not meet the zone activity standards. Accordingly, I recommend that the Rules note is amended as follows:

**Note:** Activities not listed in the rules of this chapter are ~~classified as a~~<sup>1</sup> permitted under this chapter. ~~Rules~~ TRAN-R1 to TRAN-R5, and TRAN-R78, to TRAN-R9

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<sup>1</sup> Clause 16(2)



and<sup>2</sup> TRAN-R11 in this chapter take precedence over rules in any ~~Zone~~ Chapter of Part 3 – Area-Specific Matters ~~Zone~~ Chapters and the ~~Zone~~ Chapter rules do not apply.

- 33 In terms of a s32AA assessment, in paragraph 6.68.14 of my s42A report I stated that I considered my initial change sought to amend the provisions to ensure they apply as intended and to resolve conflict between the EI and TRAN chapter for RSI and the TRAN chapter and the zone chapters. I considered that the matters covered in the TRAN Chapter are very specific road / network matters that are not usually covered by standard zone rules and accordingly, I considered that the original s32 remains applicable. I consider this statement also applies for the above recommended further changes.

#### **Amended provisions**

- 34 The amendments proposed in this final reply are set out in double underline and double ~~strike through~~ in the updated chapters contained in the s42A Officers' Final Reply Consolidated Set of Provisions.

Andrew Willis

04.08.25

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<sup>2</sup> Clause 16(2) – change to exclude TRAN-R6, TRAN-R7 and TRAN-R10 to avoid confusion over how these rules work with the zone rules - these rules should not overrule the relevant zone rules but should also be applied.

**Appendix A – Supplementary Evidence of Mr Kemp on the Definition of Stormwater Neutrality**

BEFORE THE

TIMARU DISTRICT COUNCIL  
HEARING COMMITTEE

IN THE MATTER

of the Resource Management Act  
1991

AND

IN THE MATTER

of the Proposed Timaru District Plan

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**SUPPLEMENTARY EVIDENCE BY KEVIN THOMAS KEMP**

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**Introduction**

- 1 My name is Kevin Kemp. I am currently the Stormwater Team Leader at Timaru District Council (TDC). My Qualifications and Experience were outlined previously in my evidence for Hearing E as contained in the s42a report.
- 2 I have been asked by Mr Andrew Willis in his role as a s42A author to provide supplementary evidence to provide clarification in response to the directions contained in Minute 38 and the response to this direction by PrimePort Timaru Ltd (PrimePort) and Timaru District Holdings Limited (TDHL) contained in the memorandum of counsel dated 4 July 2025 (**the submitters' response**).

- 3 I confirm I have read the Code of Conduct for expert witnesses contained in the Environment Court New Zealand Practice Note 2023 and that I have complied with it when preparing my evidence. Other than when I state I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

**Stormwater Neutrality Definition**

- 4 Stormwater Neutrality has been defined in the notified Proposed Timaru District Plan (the Plan):
- a. Means that post development stormwater runoff rates and volumes do not exceed the pre-development stormwater runoff rates and volumes.*
- 5 The definition of Stormwater Neutrality in the Council's Infrastructure Design Standards (**IDS**) is in two parts. The first part of the definition refers to restricting post-development peak flows and/or volumes to pre-development flows and/or volumes. The second part requires that post development stormwater runoff volumes generated on the site does not exceed the pre-development stormwater volumes off the site.
- 6 The Plan's revised Stormwater chapter relies on a certification approach by the Council, that certifies the Council approves proposed connections to the Council's stormwater network. The Plan refers users to the IDS (via the note in SW-R1). Given this approach, I consider the Plan and IDS definitions of Stormwater Neutrality should be consistent to avoid uncertainty in application.
- 7 I have reviewed the submitters' response to Minute 38 and the 23 January 2025 Statement of Primary Evidence of Eoghan O'Neill on behalf of Primeport Timaru Ltd and Timaru District Holdings Ltd. In his review Mr O'Neil provides two alternatives for the definition of Stormwater Neutrality. The first (contained in clause 4.4(a)) recommends an amended definition that does not refer to volumes, and that can be used in both the Plan and the IDS. Mr O'Neil's second option (contained in clause 4.4(c)) is to change the Plan definition to match the first part of the IDS definition only (i.e. excluding the second part of the IDS definition that purports to be rigid by referring to reduction of volumes rather than flows).
- 8 Following this review, I can confirm that I agree with the position set out in Clause 4.4(c) of the response to Minute 38, i.e. changing

the Plan definition to match the first part of the IDS definition only. This revised Plan definition is stated below:

- a. *Management of stormwater runoff from the site during one or more specific rainfall events to restrict post-development peak flows and/or volumes to pre-development flows and/or volumes.*

- 9 In my opinion, the use of the first part of the IDS definition for Stormwater Neutrality in the Plan is a suitable alternative as this provides flexibility in how Stormwater Neutrality is achieved either through detention and slow release or retention and re-use or a combination of the two. It also supports consistency between the Plan and the IDS.
- 10 As a consequential change, I will be recommending to the Council that the IDS definition is amended to remove the second part of the current IDS Stormwater Neutrality definition.

#### **Discussion on TDC Infrastructure Design Standard**

- 11 The IDS definition of Stormwater Neutrality was adopted by Council in May 2024 through a resolution by Councilors following a public consultation period in early 2024.
- 12 The Stormwater Neutrality definition from the IDS has been actively in practice since the beginning of 2022 through Council's Stormwater Discharge Certification process.
- 13 The process of Stormwater Discharge Certification for new development of impervious surfaces within Urban Areas documents the development activity and stormwater management solutions that ensures that the quantity and quality of stormwater generated from the site do not exceed the predevelopment levels.
- 14 Maintaining a reference to volumetric management of stormwater runoff when considering Stormwater Discharge Certification allows property developers the opportunity to utilize a wider variety of stormwater management solutions to replicate the retention potential of vegetation and soil to offset the loss of retention through establishment of impervious surfaces.
- 15 Volumetric management of stormwater can be more representative of rainfall runoff of native surfaces rather than peak flow management which allows for recovery of reticulated stormwater networks (pipes, open drains, etc.).
- 16 The Stormwater Discharge Certificate confirms compliance of the discharge into the stormwater network in accordance with

Chapter 15, Part 4 (Water Services, Stormwater) of the Timaru District Consolidated Council Bylaw 2018.

**Summary**

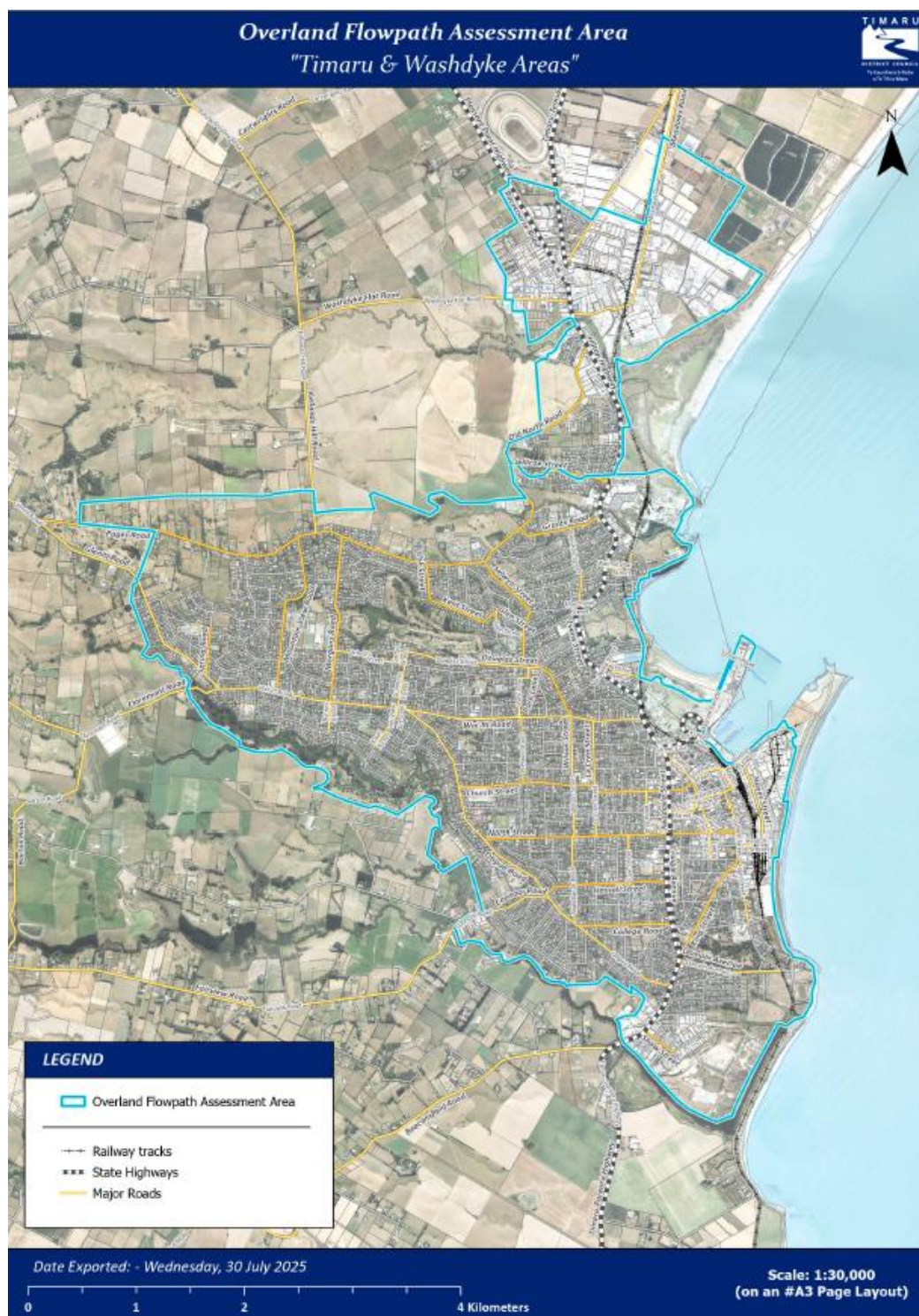
- 17 I agree with the use of the alternative definition [Clause 4.4(c)] of Stormwater Neutrality as proposed in the submitters' response to Minute 38.
- 18 In my opinion, the adjustment to this definition in the Plan will align with the IDS and associated Stormwater Discharge Certification process through the Timaru District Consolidated Council Bylaw 2018.

A handwritten signature in black ink, appearing to read 'K. Kemp', with a stylized flourish at the end.

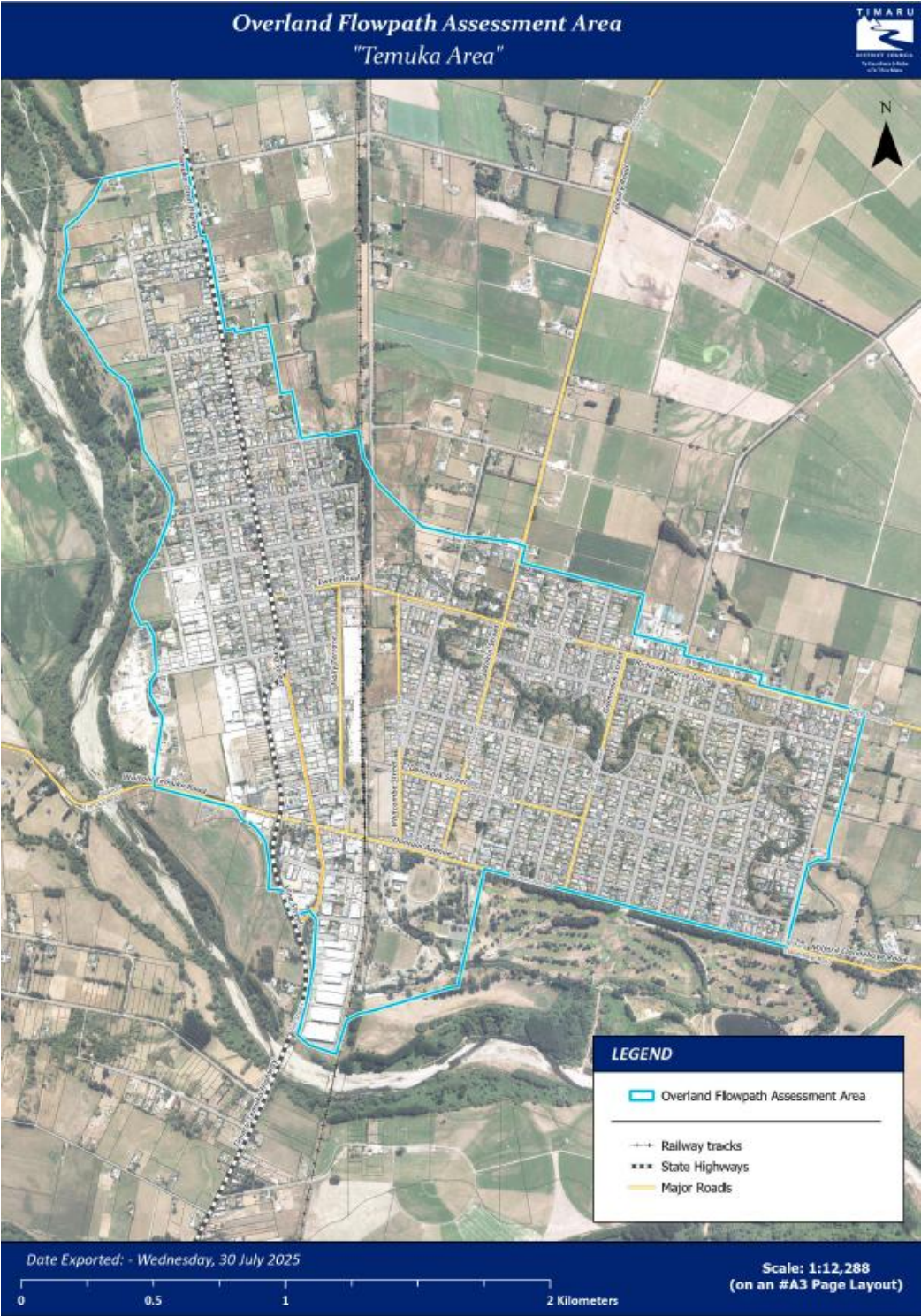
**Kevin Kemp**

25 July 2025

## Appendix B – Overland Flowpath Assessment Area Overlays





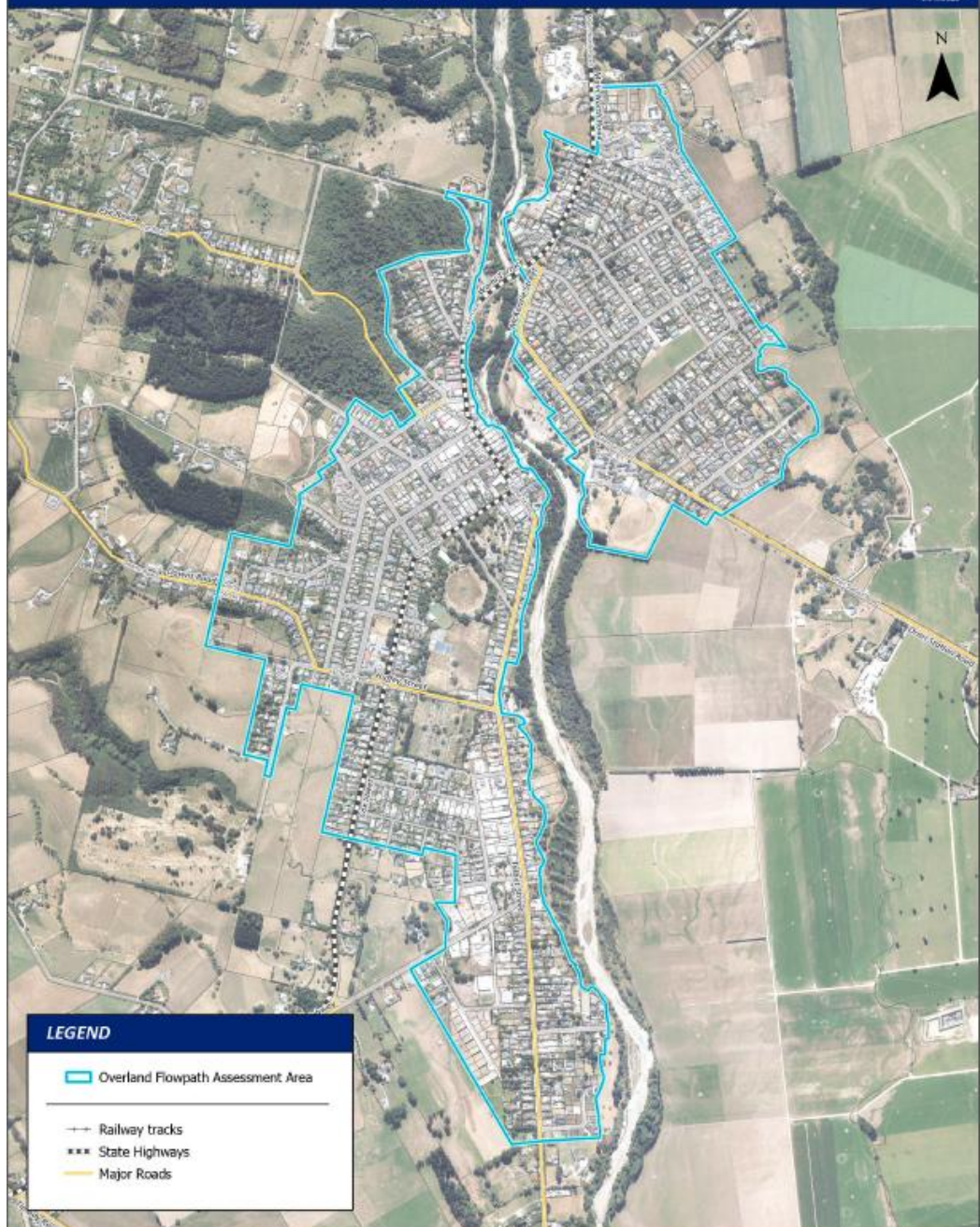








# Overland Flowpath Assessment Area & Revised Flood Assessment Area Map "Geraldine Area"



Date Exported: - Wednesday, 30 July 2025

Scale: 1:11,000  
(on an A3 Page Layout)

0 0.45 0.9 1.8 Kilometers

