

IN THE MATTER of the Resource Management Act 1991
("RMA" or "the Act")

AND

IN THE MATTER of a submission in respect of the
**PROPOSED WAIKATO DISTRICT
PLAN** by **AMBURY PROPERTIES
LIMITED** pursuant to Clause 6 of
Schedule 1 of the Act

**MEMORANDUM OF COUNSEL FOR AMBURY PROPERTIES LIMITED
IN RELATION TO PROCESS AND TIMETABLE**

1. INTRODUCTION

1.1 We refer to the pre-hearing conference ("PHC") held at Ngaruawahia on Monday, 5 August 2019 and to the minute issued by the Hearings Panel dated 6 August 2019 setting out the Panel's preliminary views on the request by Ambury Properties Limited ("APL") for an early hearing and decision on the submission that that company has lodged seeking rezoning of its 176ha site at Ohinewai.

1.2 Paragraph 4(c) of the minute notes that the parties seeking the rezoning of land at Ohinewai:

"Will need to ensure that sufficient information is available about their respective proposals so that interested parties can clearly understand what each proposal entails and how they may be affected by them. This information needs to be provided in a timeframe that will enable preparations for the hearing to proceed in an orderly, informed fashion."

1.3 Paragraph 4(d) notes the need for the wider Ohinewai community to be able to ascertain the extent that they may be affected by proposed rezoning/development at Ohinewai and expresses the preliminary view that the process should include a further public notification of the submissions that seek rezoning of land at Ohinewai so that parties representing a relevant aspect of the public interest or having an interest in the zoning matters greater than the public generally will be afforded the opportunity to lodge further submissions.

1.4 The minute invites those parties seeking rezoning at Ohinewai ("Ohinewai Submitters") to consider to:

"... consider this specific procedure and timetable necessary to implement the matters set out in paragraphs 4(c) and 4(d) above, in accordance with the following directions."

1.5 The directions set out in paragraph 6 of the minute states:

"By 5pm on Monday 12 August 2019, Ambury is to file a memorandum with the Hearings Coordinator setting out the rationale for, and specific details of, the process they consider appropriate to address the matters identified in paragraphs 4(c) and 4(d) above."

Purpose and scope of memorandum

- 1.6 Against that background, the purpose of this memorandum is to advise the Hearings Panel of the measures that we have adopted to comply with the Panel's invitation to consider specific procedures and timetables to achieve the matters set out in paragraphs 4(c) and 4(d) of the minute and to report on those matters in compliance with the direction contained in paragraph 6. In doing so, it is proposed to:
- (a) Outline the process proposed and recommended to the parties (Section 2);
 - (b) Outline the position of Ohinewai Submitters in that regard (Section 3);
 - (c) Outline the position of APL Further Submitters in that regard (Section 4);
 - (d) Summarise feedback received from the Waikato District Council ("WDC") (Section 5); and
 - (e) Summarise the outcome of consultation with the parties (Section 6).

2. PROPOSED PROCESS AND TIMETABLE

- 2.1 With the Panel's direction in paragraph 6 in mind, Counsel for APL prepared a memorandum setting out a proposed process and timetable for achieving the objectives described in paragraphs 4(c) and 4(d) of the Panel's minute together with the rationale for the process and measures proposed. The memorandum is dated 6 August 2019 but was forwarded to the parties late afternoon on Wednesday, 7 August 2019.
- 2.2 A further version, making minor amendments, including the rationale for the evidence exchange timetable which had accidentally been omitted from the first version was circulated to the parties on the morning of Friday, 9 August 2019. That memorandum is **attached** as **Appendix A**.
- 2.3 Sections 1 – 3 of the memorandum:
- (a) Referred to the PHC held on Monday, 5 August 2019 and to the salient aspects of the Panel's minute dated 6 August 2019; and
 - (b) Requests that the parties that lodged further submissions on APL's primary rezoning submission ("APL Further Submitters") and other submitters who have sought rezoning of land in Ohinewai ("Ohinewai Submitters") review the proposed process as set out in the following last three sections of the memorandum.
- 2.4 Sections 4 – 6 of the memorandum divides the tasks required to be completed prior to a hearing into three tranches as set out below. Each section outlines in general terms the need for the actions under that heading, who those actions need to be carried out by and then sets out the actions required and the rationale for them.

Preparation of public notice calling for further submissions and public notification

- 2.5 As regards this tranche of tasks, the proposed action plan, timetable and stated rationale were as follows:

"4.4 **Action** – all Ohinewai Submitters to summarise the relief they seek (by reference to their primary submission) and forward same to John Olliver of Bloxam Burnett Olliver (jolliver@bbo.co.nz) **by COB on Wednesday, 14 August 2019**.

- 4.5 **Action** - John Olliver to prepare public notice and circulate to the planners / representatives of the Ohinewai Submitters and WDC for their review and input by **COB on Monday, 19 August 2019.**
- 4.6 **Action** - The Ohinewai Submitters and WDC to provide feedback or signify agreement with wording of public notice by **COB on Thursday, 22 August 2019.**
- 4.7 **Action** - Draft public notice to be supplied to WDC once agreement is reached and by no later than **COB on Wednesday, 28 August 2019.**
- 4.8 **Action** - Public notice to be placed in the local papers on **Friday, 30 August 2019** with the period for lodging further submissions closing on **Friday, 27 September 2019.**

Rationale

- 4.9 The rationale for this aspect of the process and timetable is to ensure that:
- (a) An accurate summary of the relief sought by the Ohinewai Submitters and appropriate wording for the public notice that is agreed between the Ohinewai Submitters and WDC is achieved; and
- (b) Public notification of the relief sought by the Ohinewai Submitters within a time frame that will give any further submitters plenty of time to prepare for a hearing of the Ohinewai Submitters' submissions in May-June 2020."

- 2.6 As regards paragraphs 4.4 - 4.6 of the memorandum, WDC officers have correctly pointed out that the relief sought has already been summarised and notified – all that is proposed is to re-notify that relief and afford a further opportunity to lodge further submissions. Accordingly, there is no need to ascertain or recast that relief. APL accepts that position.

Preparation of technical material and provision of same to WDC to enable preparation of WDC's section 42A report

- 2.7 As regards this tranche of tasks, the actions required, timetable and rationale were set out as follows:

- "5.5 **Action** – John Olliver to liaise with the Ohinewai Submitters concerning the information they have / will require to and assess potential for co-ordination – **weeks of 12 and 19 August 2019.**
- 5.6 **Action** – Each Ohinewai Submitter to advise WDC what technical material they are obtaining and seek WDC feedback as to whether the subject matter and scope of analysis is what WDC requires – **COB on Friday, 23 August 2019.**
- 5.7 **Action** – Ohinewai Submitters to provide all technical reports including supporting documentation (equivalent to an AEE) and section 32AA assessments to WDC **by COB on 1 December 2019.**
- 5.8 **WDC** to prepare and release section 42A report by **Friday, 13 March 2020.**

Rationale

- 5.9 *The rationale for this aspect of the process and timetable is to ensure:*
- (a) *The all Ohinewai Submitters focus on and obtain all the technical assessments they require to support their rezoning proposals.*
 - (b) *That confirmation is obtained in advance so that the scope and content of that technical material will be sufficient to enable WDC to prepare a robust section 42A recommendation report on the proposed rezonings.*
 - (c) *That these actions are completed within a time frame that enables a May-June 2020 hearing of the Ohinewai Submitters submissions."*

Evidence exchange timetable

- 2.8 As regards the evidence exchange timetable, the following timetable and rationale for that timetable was set out as follows:

- "6.2 *The following timetable for the preparation and submission of evidence is proposed:*
- (a) *All Ohinewai Submitters' technical and other supporting evidence to be filed with WDC by **Thursday, 5 April 2020.***
 - (b) *All APL Further Submitters' and Other Further Submitters evidence to be filed with WDC by **Thursday, 19 April 2020.***
 - (c) *Ohinewai Submitters' rebuttal evidence to be filed with WDC by **Thursday, 7 May 2020.***
 - (d) *WDC to prepare updated section 42A report, taking account of the evidence filed to be released by **Thursday, 21 May 2020.***
 - (e) *Ohinewai Rezoning hearing commences on **Monday, 1 June 2020.***
- 6.3 *Counsel's view is that the appropriate venue for the hearing would be the WDC Council Chamber in Ngaruawahia.*

Rationale

- 6.4 *The rationale for this aspect of the process and timetable is as follows:*
- (a) *Given the nature of the hearing it is appropriate that the Ohinewai Submitters prepare and present their evidence first, with further submitters following and WDC then commenting in the section 42A report as per the hearing of a resource consent application.*
 - (b) *The timetable provides ample time for all parties to prepare evidence and respond to the evidence of other parties and for WDC officers to update their section 42A report.*

- (c) *The rationale for the timing is to enable the APL primary submission (and now other submissions) to be heard and determined early for the reasons outlined in submissions of counsel for APL dated 5 August 2019.*

Amended evidence exchange timetable

- 2.9 As noted below, Mercury NZ Limited ("Mercury") raised concerns about the evidence exchange timetable. Following discussions between counsel for APL and Mercury, it was agreed that, provided that APL's technical information will be made available to all parties on 1 December 2019, the following amended evidence exchange timetable is appropriate:
- (a) All Ohinewai Submitters' technical and other supporting evidence to be filed with WDC by **Thursday, 2 April 2020**.
 - (b) All APL Further Submitters' and Other Further Submitters evidence to be filed with WDC by **Thursday, 7 May 2020**.
 - (c) Ohinewai Submitters' rebuttal evidence to be filed with WDC by **Thursday, 21 May 2020**.
 - (d) WDC rebuttal evidence to be filed and provided to all other parties by **Thursday, 28 May 2020**.
 - (e) Ohinewai Rezoning hearing commences on **Monday, 8 June 2020**.
- 2.10 All other parties were asked to signify whether they opposed this change and none other than Waikato-Tainui (see below) have signified a concern. WDC has advised that the hearing timetable for June 2020 can accommodate a hearing commencing on that date.
- 2.11 APL recognises the importance of Stage 2 of the Waikato PDP being notified and submissions thereon being available before the hearing of the Ohinewai submissions. Accordingly, if the notification of Stage 2 is delayed beyond 2 March 2020, this evidence exchange timetable will need to be revisited.
- 2.12 APL acknowledges that the timing for the release of the section 42A report departs from the 25 working days in advance of the hearing in accordance with the Hearing Panel's first directions.

3. FEEDBACK FROM OHINEWAI REZONING SUBMITTERS

- 3.1 This section outlines the feedback/comments received from the submitters who have sought rezoning of land at Ohinewai noting that a number of these submitters are also further submitters on the APL's primary submission.

Ohinewai Land Limited

- 3.2 By email dated 9 August 2019, legal counsel for Ohinewai Land Limited, Mr Muldowney advised:

"Ohinewai Land Ltd intends to refine and clarify the nature of the relief set out in its primary submission which is broadly framed. It is essential that the public has a clear understanding of that submission through the extended further submission process. To that end Ohinewai Land Ltd will file a memorandum with WDC by 14 August 2019 which will set out its position. This position will be reflected in the information which will be compiled for the purpose of the further public notification."

Ohinewai Area Committee

- 3.3 By email dated 8 August 2019, Ms Maher provided the following feedback:

"Hi Simon, the Ohinewai Area Committee support this, we just want to make sure the timeframes for when the submissions need to be firmed up and no longer changed."

Ribbonwood Family Trust

- 3.4 By email dated 8 August 2019, Mr Kirton, of the Ribbonwood Family Trust advised:

"Ribbonwood Family Trust has no objection to the proposed process and associated timeframe. We fully support the Sleepyhead Estate development plan and will contribute to progressing the matter as practicable"

Planning Focus Limited

- 3.5 By email dated 9 August 2019, Mr Arnesen of Planning Focus Limited advised:

"Planning Focus Limited is agreeable to process set out in your memorandum Version 2 dated 9 August 2019."

Shand Properties Limited

- 3.6 By email dated 10 August 2019, Shand Properties Limited's planning consultant, Mr Eccles, advised:

"...Shand Properties agrees with the process and timetable set out in your memorandum Version 2 dated 9 August 2019.

I note to all parties that the Shand Properties submission already contains a body of technical assessment information addressing the zoning sought in the submission. I envisage some of that information (e.g. Transport Assessment) will need updating to reflect the advent of the Ambury submission. We will also update the Natural Hazard assessment should it be required. To that end, I encourage parties to review the Shand submission information in the shorter term and feel free to direct any queries to me as required – there is no need to wait until December."

4. FEEDBACK FROM FURTHER SUBMITTERS ON APL'S SUBMISSION

- 4.1 This section outlines the feedback/comments received from the further submitters on the APL's primary submission.

New Zealand Transport Agency

- 4.2 By email dated 8 August 2019, Ms Harris-Cottle advised:

"The NZ Transport Agency has no objection to the proposed process and timeline set out.

However, we would appreciate an early opportunity to discuss the information requirements of the Ohinewai Submitters, to ensure agreement over all necessary technical information that will need to be provided."

- 4.3 We responded to Ms Harris-Cottle that Mr Olliver would be in touch in due course with a view to agreeing the transportation-related technical information that is being prepared.

Waikato Regional Council

- 4.4 By email dated 9 August 2019, Ms Foley of Waikato Regional Council advised:

"The Waikato Regional Council (WRC) appreciates the imperative to bring forward the hearing of this matter. Given the location of the various sites being considered for rezoning and known hazards in the locality, WRC requests that adequate time is allowed for staff to review and assess the detailed technical information, and allow for constructive discussions ahead of the hearing. This will allow for parties to be well prepared for the hearings and for the hearing process to be efficient and effective.

We would also appreciate an early opportunity to discuss the information requirements of the Ohinewai Submitters, to ensure agreement over all necessary technical information.

Please note that WRC's Regional Resilience Team is available to provide ongoing technical advice to the submitters in relation to natural hazards and can be contacted via their team leader Rick Leifting rick.leifting@waikatoregion.govt.nz"

Mercury NZ Limited

- 4.5 By email dated 9 August 2019, counsel for Mercury NZ Limited ("Mercury"):
- (a) Requested that modelling, assessment and reporting on flood risk and residual risk be "in the context of the Lower Waikato Catchment". This is agreed.
 - (b) Sought that technical information be supplied to the company on 1 December 2109. This is agreed.
 - (c) Took issue with the evidence exchange timetable and requested a longer period for further submitters to file their evidence.
- 4.6 Following further discussions with Mercury, it was agreed that, provided that APL's technical information will be made available to all parties on 1 December 2019, the amended evidence exchange timetable set out in paragraph 2.9 above is appropriate.

Auckland / Waikato Fish and Game

- 4.7 By email dated 8 August 2019, Mr Wilson, Chief Executive of Auckland-Waikato Fish and Game advised:

"Auckland/Waikato Fish and Game has no concerns with the proposed process and timeline as set out in the draft memorandum.

However, we do suggest the following change to the draft memorandum:

1.3 For the purpose of this memorandum, we will refer to these parties who lodged further submissions on APL's primary submission on the Waikato Proposed District Plan as "the APL Further Submitters."

- 4.8 That amendment was made and was included in the second version of the memorandum that was circulated on the morning of Friday, 9 August 2019.

Waikato-Tainui

- 4.9 By email dated 10 August 2019, Ms Tukere, the General Manager, Development and Wellbeing for Waikato-Tainui advised as follows:

"We have received the emails below in relation to the Ohinewai Submissions.

We are concerned with the haste in which this proposal is being progressed. We need more time to consider what is being proposed including engaging with our mana whenua to understand their position.

A meeting of the Waikato-Tainui and Waikato District Council Co-Governance committee for the Waikato River is due to be held later this month. We will be raising our concerns in regard to this issue with the Mayor and members of the Committee. "

- 4.10 Despite subsequent discussions, Ms Tukere has signified that this concern remains.
- 4.11 APL acknowledges that Waikato-Tainui (and all other submitters) must have sufficient time to consider its proposed development and engage with its members/mana whenua to understand their position on that proposal. That is consistent with the position taken by the Panel in paragraph 4(c) of its minute, as set out in paragraph 1.2 above.
- 4.12 In that regard, we note as follows:
- (a) Waikato-Tainui will have nine months between now and when its evidence would be due in May 2020 to review the details of the APL proposed development, engage with its members to understand their position on the proposal and liaise with APL as to how any issues raised by its members may be addressed.
 - (b) APL is conscious that Waikato-Tainui (and other submitters) will also be involved in other aspects of the Waikato District Plan review over that time. As outlined below, APL has accordingly liaised with WDC to ensure that its proposed evidence exchange timetable and hearing dates can be accommodated within the programme for hearing submissions on other sections of the proposed Waikato District Plan (including the Rural zone provisions).
 - (c) It has already been agreed that a Tangata Whenua Working Group ("TWWG") will be established for the project, which will include representatives from Nga Muka, Waahi Whaanui, Te Riu O Waikato and Waikato Tainui. The Chairs of each of those entities will sit on the TWWG, which will meet on at least a monthly basis with APL representatives to discuss environmental, cultural and other issues with the development and how those can be addressed. The next meeting of the TWWG is scheduled for 10am on Monday 26 August 2019.
- 4.13 In light of the above, APL's position is that the process and timetable set out in Section 3 and paragraph 2.9 of this memorandum will ensure that Waikato-Tainui clearly understands the proposed APL development and how this may affect mana whenua interests, as well properly prepare for the hearing, consistent with paragraph 6 of the Panel's minute.

Ohinewai Area Committee

- 4.14 As above.

Ohinewai Land Limited

- 4.15 As above.

Shand Properties Limited

- 4.16 As above.

5. FEEDBACK FROM WAIKATO DISTRICT COUNCIL

5.1 By email dated 9 August 2019, WDC's planning consultant, Ms Wratt, forwarded us an email with a copy of the process / timetable memorandum dated 6 August 2019 annotated with comments and amendments. As it is not proposed to recirculate that memorandum, it is proposed here to summarise the comments made insofar as they are relevant to the Panel's decision-making. Those comments are as follows:

- (a) Paragraph 1.1 - WDC notes that APL is not only seeking a rezoning but other changes to the Waikato PDP. That is accepted.
- (b) Paragraph 4.2(c)(ii) – the same point is made.
- (c) Paragraph 4.4, 4.9(a) – WDC have correctly pointed out that the relief sought has already been summarised and notified – all we are doing is notifying that relief again and affording a further opportunity to lodge further submissions. Accordingly, there is no need to ascertain or recast that relief. APL accepts that position.
- (d) Paragraph 4.8 to be amended to read:

*“Public notice to be placed in the local papers (being the Waikato Times, TK Chatter, North Waikato News and The Herald) and on Council's website on **Monday, 2 September 2019.**”*
- (e) Paragraph 5.6 – WDC will only identify what information is missing, not comment on scope, etc.
- (f) Paragraph 5.8 – WDC notes that the timing for the release of the section 42A report departs from this departs from the 25 working days in advance of the hearing in accordance with the Hearing Panel's first directions.
- (g) Paragraph 5.9(a) – WDC note that:
 - (i) Shand Properties Ltd sought many changes to provisions and if the focus of the Ohinewai hearing is the rezoning request by Shand, this needs to be pointed out. That is of course not the case.
 - (ii) Ohinewai Land Limited has sought a growth area which could arguably include provisions.

APL acknowledges that the Ohinewai hearings will involve significantly more than simple rezoning. This language was “shorthand” for the purpose of the memorandum.

- (h) WDC have pointed out that the Rural zone hearings will occur in May and has suggested that the programme be accelerated to enable a hearing to commence on 25 May 2020. Ms Wratt has subsequently advised that WDC has been able to amend the timetable for the Rural zone hearings, in order to accommodate the Ohinewai rezoning hearing beginning on 8 June 2020.

6. OUTCOME OF CONSULTATION

6.1 The outcome of APL's consultation with the APL Further Submitters and the Ohinewai Submitters is as follows.

6.2 The parties that agree with the process and timetable outlined in the memoranda dated 9 August 2019 as amended per paragraph 2.9 of this memorandum comprise:

- (a) Ohinewai Land Limited;

- (b) Ohinewai Area Committee;
- (c) Mercury NZ Limited;
- (d) Ribbonwood Family Trust;
- (e) New Zealand Transport Agency;
- (f) Planning Focus Limited;
- (g) Waikato Regional Council;
- (h) Fish and Game; and
- (i) Shand Properties Limited.

6.3 WDC has signified that a hearing on that date can be arranged.

6.4 Waikato-Tainui has signified a concern about the pace at which the process is moving and intend to raise the matter with the mayor later this month. APL will also address this concern with Waikato-Tainui directly through the TWWG hui that have been established.

6.5 In light of the above, the only party that the Panel may wish to hear from in respect of APL's proposed process and timetable going forward is Waikato-Tainui.

6.6 The rationale for the process and timetable set out in this memorandum are as per that set out in the memorandum dated 9 August 2019 (**attached as Appendix A**) and set out above, other than as it relates to the measures originally proposed to summarise the relief for the purpose of preparing the public notice, which is no longer necessary.

6.7 Counsel for APL and the APL team are grateful for the Hearing Panel's attention to this matter.

DATED this ^{12th} day of August 2019



S J Berry
Counsel for Ambury Properties Limited

APPENDIX A

**MEMORANDUM OF COUNSEL FOR AMBURY PROPERTIES LIMITED DATED 9 AUGUST
2019 (SUPERSEDING MEMORANDUM SENT ON 7 AUGUST 2019) ADDRESSING
PROCESS AND TIMING ISSUES**



MEMORANDUM

To: Further submitters to Ambury Properties Ltd Ohinewai submission
Ohinewai rezoning submitters
Waikato District Council

From: Simon Berry and John Olliver

Date: Version 2 - 9 August 2019

Subject: **OHINEWAI REZONING PROPOSALS - PROCEDURAL ISSUES AND TIMING**

1. INTRODUCTION

- 1.1 We refer to the pre-hearing conference ("PHC") held at the Waikato District Council ("WDC") Council Chamber on Monday, 5 August 2019 to discuss legal and procedural issues relevant to the request by Ambury Properties Limited ("APL") for an early hearing and decision on the APL submission seeking rezoning of its 176ha site at Ohinewai.
- 1.2 The meeting was attended by WDC representatives/advisors and representatives/advisors of a number of parties who lodged further submissions on APL's primary submission on the Waikato Proposed District Plan, namely:
- (a) Ohinewai Lands Limited ("OLL");
 - (b) Shand Properties Limited ("SPL");
 - (c) Waikato-Tainui;
 - (d) The New Zealand Transport Agency ("NZTA");
 - (e) Mercury Energy Limited ("Mercury");
 - (f) Waikato Regional Council ("WRC"); and
 - (g) Ohinewai Area Committee ("OAC").
- 1.3 For the purpose of this memorandum, we will refer to parties who lodged further submissions on APL's primary submission on the Waikato Proposed District Plan as "the APL Further Submitters." The contact details for these parties are contained in **Appendix A**.
- 1.4 The APL Further Submitters signified their position in relation to APL's request. It is not proposed to record the position adopted by the parties.

2. PANEL MINUTE DATED 6 AUGUST

2.1 The outcome of the PHC is recorded in a minute dated 6 August 2019. For ease of reference, the Panel's preliminary view on APL's request was as follows:

4. *As advised verbally, our preliminary view is that the following procedure should be followed:*
 - a. *To ensure that decisions on the proposed plan result in an holistic, integrated land use planning outcome for the Ohinewai area, all the submissions requesting zoning changes for Ohinewai should be considered at the same hearing.*
 - b. *Those submissions comprise the rezoning proposals from:*
 - i. *Ambury*
 - ii. *Planning Focus Limited (only to the extent it has not been subsumed by the Ambury submission)*
 - iii. *Shand Properties (only in respect of their proposals for land adjacent to Ambury's land at Ohinewai)*
 - iv. *Ohinewai Land*
 - v. *Ohinewai Area Committee*
 - vi. *Ribbonwood Family Trust*
 - c. *The parties listed in paragraph 4 b above will need to ensure that sufficient information is available about their respective proposals so that interested parties can clearly understand what each proposal entails and how they may be affected by them. This information needs to be provided in a timeframe that will enable preparations for the hearing to proceed in an orderly, informed fashion.*
 - d. *The wider Ohinewai community needs to be afforded the opportunity to ascertain the extent to which they may be affected by the proposed development at Ohinewai; to be able to provide further submissions on these matters; and to be able to speak to them at the hearing. Our preliminary view is that the process should include "public notification", although the form of this is yet to be determined. Such notification will need to inform the public that their further submissions will only be able to be considered if we are satisfied that they meet the requirements of Clause 8 of Schedule 1 of the Resource Management Act 2019 – that being that they either represent a relevant aspect of the public interest, or that they have an interest in the matter that is greater than the interest the general public has.*
5. *We invite the parties listed in paragraph 2 to further consider the specific procedures and timetable necessary to implement the matters set out in paragraphs 4 c and 4 d above, in accordance with the following Directions.*

2.2 For the purpose of this memorandum, we will refer to the parties referred to in paragraph 4(b) of the Panel's minute as "the Ohinewai submitters". The contact details for these parties are contained in **Appendix A**.

2.3 The directions issued by the Panel were as follows:

6. *By **5pm on Monday 12 August 2019**, Ambury is to file a memorandum with the Hearings Coordinator setting out the rationale for, and specific details of, the process they consider appropriate to address the matters identified in paragraphs 4 c and 4 d above.*
7. *To the extent possible, that memorandum should represent a consensus view of as many as possible, and preferably all, of the parties listed in paragraph 2 above.*
8. *In the event that any party/s listed in paragraph 2 above, other than the Waikato District Council, have a different view on how the matters identified in paragraphs 4 c and 4 d should be progressed, those party/s are to file their own memorandum on these matters. Any such memoranda are to be received by the Hearings Coordinator by **5pm on Friday 16 August 2019**.*
9. *If any memoranda are received pursuant to paragraph 8 above, the Waikato District Council is to file a memorandum setting out how it considers these matters should be progressed. Any such memorandum is to be received by the Hearings Coordinator by **5pm on Wednesday 21 August 2019**.*
10. *On receipt of the material required by these Directions, we will proceed to either issue our final decision on the Ambury request, or, but only if necessary, convene a further pre-hearing conference.*

(Emphasis ours.)

3. **PROPOSED PROCESS AND TIMETABLE – URGENT REVIEW AND COMMENT**

3.1 Against that background, the purpose of the remainder of this memorandum is to set out an action plan and timetable for carrying out the key steps in the process leading up to the hearing of the Ohinewai rezoning submissions, along with the rationale for that action and timing as required by the Panel's minute.

3.2 Per paragraph 6 of the Panel's minute, it is hoped that consensus can be achieved in relation to the following proposed process and timetable by the time we are required to report to the Panel by the close of business on Monday, 12 August 2019.

3.3 **All APL Further Submitters and Ohinewai Submitters are requested to signify their position in relation to the proposed process and timetable set out below as soon as practicable and preferably by 12 noon on Friday, 9 August 2019.**

3.4 If any APL Further Submitter or Ohinewai Submitter wishes to suggest a different action or date, please advise what they would prefer and signify the rationale for the change.

4. **PREPARATION OF PUBLIC NOTICE CALLING FOR FURTHER SUBMISSIONS AND PUBLIC NOTIFICATION**

4.1 The set of actions under this heading only applies to the Ohinewai Submitters and WDC. The APL Further Submitters are not required to take any action.

4.2 The Panel has directed that the submissions by the Ohinewai Submitters be the subject of public notification with further submissions being called for. It is envisaged that the public notice will:

- (a) Take the form of a summary of submissions as would be notified in accordance with the First Schedule to the Resource Management Act 1991 ("RMA");
- (b) Refer to the Panel's directions and explain the rationale for renotification of the Ohinewai Submitters submission;
- (c) Call for further submissions to be lodged provided that the further submitter qualifies under Clause 8 of the First Schedule 1 to the RMA as:
 - (i) Representing a relevant aspect of the public interest; or
 - (ii) Having an interest in the proposed Ohinewai rezonings is greater than the interest the general public has.

4.3 The first action required is for the Ohinewai Submitters and WDC to reach agreement on the wording and timing of the notice that is to be publicly notified, in relation to the proposed Ohinewai rezonings, calling for further submitters.

Actions required

4.4 **Action** – all Ohinewai Submitters to summarise the relief they seek (by reference to their primary submission) and forward same to John Olliver of Bloxam Burnett Olliver (jolliver@bbo.co.nz) **by COB on Wednesday, 14 August 2019.**

4.5 **Action** - John Olliver to prepare public notice and circulate to the planners / representatives of the Ohinewai Submitters and WDC for their review and input by **COB on Monday, 19 August 2019.**

4.6 **Action** - The Ohinewai Submitters and WDC to provide feedback or signify agreement with wording of public notice by **COB on Thursday, 22 August 2019.**

4.7 **Action** – Draft public notice to be supplied to WDC once agreement is reached and by no later than **COB on Wednesday, 28 August 2019.**

4.8 **Action** - Public notice to be placed in the local papers on **Friday, 30 August 2019** with the period for lodging further submissions closing on **Friday, 27 September 2019.**

Rationale

4.9 The rationale for this aspect of the process and timetable is to ensure that:

- (a) An accurate summary of the relief sought by the Ohinewai Submitters and appropriate wording for the public notice that is agreed between the Ohinewai Submitters and WDC is achieved; and

- (b) Public notification of the relief sought by the Ohinewai Submitters within a time frame that will give any further submitters plenty of time to prepare for a hearing of the Ohinewai Submitters' submissions in May-June 2020.

5. **PREPARATION OF TECHNICAL MATERIAL AND PROVISION OF SAME TO WDC TO ENABLE PREPARATION OF WDC'S SECTION 42A REPORT**

5.1 The set of actions under this heading only applies to the Ohinewai Submitters and WDC. The APL Further Submitters are not required to take any action.

5.2 It will be necessary for the Ohinewai Submitters to obtain from suitably qualified experts all of the technical analysis that is required to support their proposed rezonings including:

- (a) Section 32AA evaluation and report;
- (b) Modelling, assessment and reporting on flood risk and residual risk;
- (c) Assessment and reporting on civil engineering matters, including geotechnical and provision of infrastructure;
- (d) Assessment and reporting on potential effects, including noise, landscape and visual ecological effects / urban design, ecological, traffic, etc.

5.3 The next major task is for the rezoning proponents to provide the technical material necessary to enable WDC officers to enable preparation of the WDC's section 42A recommendation report in relation to the rezonings sought by the Ohinewai Submitters. Assuming a hearing in May 2020, WDC has advised that:

- (a) The section 42A report needs to be prepared by mid-March 2020; and
- (b) In order to achieve that that all technical material needs to be completed and submitted to WDC with a suitable supporting document (akin to an assessment of environmental effects coupled with a section 32AA report) by 1 December 2019.

5.4 It is envisaged that each Ohinewai Submitter will engage and furnish material from their own consultants but some degree of co-ordination / co-operation may be feasible.

Actions required

5.5 **Action** – John Olliver to liaise with the Ohinewai Submitters concerning the information they have / will require to and assess potential for co-ordination – **weeks of 12 and 19 August 2019.**

5.6 **Action** – Each Ohinewai Submitter to advise WDC what technical material they are obtaining and seek WDC feedback as to whether the subject matter and scope of analysis is what WDC requires – **COB on Friday, 23 August 2019.**

5.7 **Action** – Ohinewai Submitters to provide all technical reports including supporting documentation (equivalent to an AEE) and section 32AA assessments to WDC **by COB on 1 December 2019.**

5.8 **WDC** to prepare and release section 42A report by **Friday, 13 March 2020.**

Rationale

- 5.9 The rationale for this aspect of the process and timetable is to ensure:
- (a) The all Ohinewai Submitters focus on and obtain all the technical assessments they require to support their rezoning proposals.
 - (b) That confirmation is obtained in advance so that the scope and content of that technical material will be sufficient to enable WDC to prepare a robust section 42A recommendation report on the proposed rezonings.
 - (c) That these actions are completed within a time frame that enables a May-June 2010 hearing of the Ohinewai Submitters submissions.

6. EVIDENCE EXCHANGE TIMETABLE

6.1 This section sets out the timetable for the preparation and filing of evidence in the lead up to the hearing. It applies to both the Ohinewai Submitters, the APL Further Submitters and any other further submitters that may lodge a further submission following the further public notification of the summary of the Ohinewai Submitters' submissions ("Other Further Submitters").

6.2 The following timetable for the preparation and submission of evidence is proposed:

- (a) All Ohinewai Submitters' technical and other supporting evidence to be filed with WDC by **Thursday, 5 April 2020**.
 - (b) All APL Further Submitters' and Other Further Submitters evidence to be filed with WDC by **Thursday, 19 April 2020**.
 - (c) Ohinewai Submitters' rebuttal evidence to be filed with WDC by **Thursday, 7 May 2020**.
 - (d) WDC to prepare updated section 42A report, taking account of the evidence filed to be released by **Thursday, 21 May 2020**.
 - (e) Ohinewai Rezoning hearing commences on **Monday, 1 June 2020**.
- 6.3 Counsel's view is that the appropriate venue for the hearing would be the WDC Council Chamber in Ngaruawahia.

Rationale

- 6.4 The rationale for this aspect of the process and timetable is as follows:
- (a) Given the nature of the hearing it is appropriate that the Ohinewai Submitters prepare and present their evidence first, with further submitters following and WDC then commenting in the section 42A report as per the hearing of a resource consent application.
 - (b) The timetable provides ample time for all parties to prepare evidence and respond to the evidence of other parties and for WDC officers to update their section 42A report.

- (c) The rationale for the timing is to enable the APL primary submission (and now other submissions) to be heard and determined early for the reasons outlined in submissions of counsel for APL dated 5 August 2019.

APPENDIX A

APL FURTHER SUBMITTERS

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