

## Before Independent Hearing Commissioners

### In Waikato

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Under the Resource Management Act 1991 ('RMA')

In the matter of the Proposed Waikato District Plan – Variation 3

Between **Waikato District Council**  
Local authority

And **Waka Kotahi New Zealand Transport Agency**  
Submitter 029 and Further Submitter 216

And **KiwiRail**  
Submitter 054 and Further Submitter 215

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### Joint memorandum of counsel by Waka Kotahi New Zealand Transport Agency, KiwiRail, and Waikato District Council

Dated 9 June 2023

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## MAY IT PLEASE THE HEARINGS PANEL

- 1 This joint memorandum has been prepared on behalf of Waka Kotahi, KiwiRail and Waikato District Council (**'Council'**).
- 2 Waka Kotahi and KiwiRail are submitters and further submitters on Variation 3 of the Proposed Waikato District Plan (**'PDP'**). The hearing for Variation 3 is due to commence on 26 July 2023. Waka Kotahi and KiwiRail also lodged submissions and appeals on the PDP. The appeals process is ongoing.
- 3 Under both the Operative District Plan and the PDP (decisions version) there are noise provisions which require sensitive land use to be set back from the boundary of state highways and rail corridors (varying from 25-35m for state highways and 5m for rail).
- 4 In their appeals on the PDP, Waka Kotahi and KiwiRail requested that the replacement of the building setbacks throughout the district with a noise and vibration 'effects area' to manage noise/vibration effects on new or altered sensitive uses establishing near the state highway/rail corridor. KiwiRail has also sought provisions in relation to building setbacks around the rail corridor.
- 5 As part of the Variation 3 process, Waka Kotahi and KiwiRail also lodged submissions requesting that the noise 'effects area' also apply within the four urban environments affected by Variation 3. The purpose of these submissions was to ensure that the noise effects areas apply consistently across the district.
- 6 Waka Kotahi, KiwiRail and Council have met several times to discuss the key issues relating to the appeals and are making progress on some updated provisions. A meeting is scheduled for 28 June 2023 with all the parties to the appeals (including 274 parties) to discuss the updated provisions. The parties have been working hard to expediate the appeals process with the timing of the Variation 3 hearing in mind, but cannot be certain that the appeals will be resolved before the Variation 3 hearing in late July/early August.
- 7 For that reason, the parties respectfully request that all Waka Kotahi and KiwiRail's relief elements for noise and vibration controls and setbacks in relation to Variation 3 is postponed until the end of the hearing process to enable time and resources to be put into resolving the PDP appeals.
- 8 Waikato District Council has confirmed it supports a postponement of the hearing of the Waka Kotahi and KiwiRail submissions on Variation 3. The timetable below

has been proposed by the Council (the same timetable as for the Horotiu Farms submission) and Waka Kotahi and KiwiRail agree to the proposed timing:

- a Council's section 42A report due 15 September 2023;
  - b Council's expert evidence in chief due 22 September 2023;
  - c Submitters evidence in chief due 20 October 2023 (taking into account school holidays);
  - d Any rebuttal evidence (of Council or submitters) due 27 October 2023;
  - e Legal submissions due 3 November 2023; and
  - f Hearing commencing on or after 6 November 2023.
- 9 Please let us know if the Hearing Panel requires any further information.

**Dated** 9 June 2023



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Louise Espin


**Counsel for Waka Kotahi**



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Allison Arthur-Young

**Counsel for KiwiRail**



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Jill Gregory

**Counsel for Waikato District Council**