

BEFORE THE FAST-TRACK PANEL

IN THE MATTER

An application for approvals under section 42 of
the Fast-track Approvals Act 2024

AND

IN THE MATTER

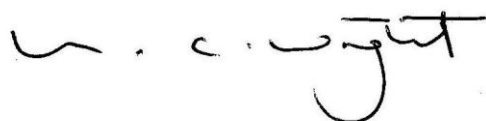
Delmore, a project listed in Schedule 2 to the FTAA

MEMORANDUM OF COUNSEL FOR THE APPLICANT

4 July 2025

MAY IT PLEASE THE PANEL

1. This memorandum is filed in response to the memorandum of counsel filed on behalf of the Council family dated 2 July 2025 (“**Council memo**”).
2. Written comments on the substantive application for Delmore were due 25 June 2025. The Council filed an extensive body of material, including a legal memorandum.
3. The Council memo provides further written comment on the substantive application received by the EPA on behalf of the panel after that statutory deadline.
4. It is not limited to (for example) process or simply bringing judicial decisions to the attention of the panel. The Council memo provides substantive comment on its view of the implications of the Court of Appeal’s judgement in *Glenpanel Development Ltd v Expert Consenting Panel*¹ and the Supreme Court’s judgement in *Royal Forest & Bird Protection Society of New Zealand Inc v NZTA*² for the Delmore application, and for the Council’s 25 June 2025 comments.
5. There is no ability for the Council to seek a waiver or extension of that deadline.³ However, the panel has a discretion to consider material provided after the statutory deadline for comments.⁴
6. The applicant submits that the panel should not consider the material provided. The judgements addressed in the Council memo were available when the Council provided its comments to the EPA on 25 June 2025. They should have been addressed then if the Council wanted to comment on their application to Delmore.
7. However, the applicant will include a response to the Council memo in its response to comments in case the panel decides otherwise.



Madeleine C Wright

Counsel for Vineway Ltd

¹ *Glenpanel Development Ltd v Expert Consenting Panel* [2025] NZCA 154

² *Royal Forest and Bird Protection Society of New Zealand Inc v New Zealand Transport Agency* [2024] NZSC 26

³ FTAA, s 54(4)

⁴ FTAA, s 81(6)