



**Carter Holt Harvey**  
submission to the  
**New Zealand Commerce Commission**  
on the  
**Residential Building Supplies Market Study**

13 October 2022

### **Introduction**

1. Carter Holt Harvey (**CHH**) provides this submission (**Submission**) to the Commerce Commission (**Commission**) regarding the market study into residential building supplies in New Zealand (**Market Study**).
2. In particular, we provide this Submission to set the record straight by responding to inaccurate submissions that Independent Timber Merchants Co-operative Limited (**ITM**) has made to the Commission about CHH's business and the supply of structural timber in New Zealand, both in ITM's written submission dated 2 September 2022 and in the Commission's conference on 28 September 2022.
3. While we appreciate that this Submission includes information and material that we have already previously provided to the Commission during the Market Study (including in our various meetings with you, and in our various responses to the Commission's information requests, throughout the Market Study), we nevertheless wanted to summarise this information again for the Commission to assist the Commission in putting ITM's submissions in their proper context.
4. We trust that this Submission will assist the Commission to do so, and that the Commission's final report will reflect the correct position as detailed in this Submission (and the other materials that CHH has provided the Commission throughout its Market Study).
5. As we have been throughout the Market Study, we are available to meet with the Commission to discuss further.

### **Executive summary**

6. While ITM seeks to assert that CHH's vertical integration was a problem for it during the 2021 supply shortages, in reality CHH had engaged with ITM numerous times prior to that, seeking to enter into a supply contract with ITM to provide ITM with certainty of supply and to provide CHH with certainty of custom (which is important for CHH's planning and investment purposes).
7. Having considered CHH's proposal around supply certainty, ITM chose not to enter into any supply contract or make any purchasing commitments to CHH instead choosing to purchase from CHH on a spot basis – treating CHH as a spot supplier of a commodity product.
8. When the supply shortages occurred in 2021, which meant that CHH could not confirm delivery dates for all volumes, CHH then took the fair and rational approach of, in the first instance, confirming delivery dates and volumes to customers that it had agreed supply commitments with. While ITM no doubt would have had customers that were disappointed that ITM experienced delivery delays, that was a result of its own procurement decisions. ITM needs to be open with its customers about that, rather than seeking to use the Market Study process to incorrectly shift attention from its own procurement decisions.
9. ITM's observed behaviour, is not consistent with the behaviour of a customer that could truly be regarded as concerned about any vertical foreclosure issues.

### **CHH's response to ITM**

10. In its 2 September 2022 submission, ITM alleged that during the structural timber shortages of 2021 CHH improperly preferred supply of structural timber to Carters and PlaceMakers to the detriment of ITM, rather than implementing a "fair allocation model". ITM has then, based on those allegations, sought to question CHH's vertical integration and the way it conducts its business.

## REDACTED VERSION

11. CHH categorically refutes ITM's allegations. We consider that the way ITM has put forward its submissions has been misleading by mischaracterising and omitting a number of key facts – including by omitting that CHH had engaged with ITM on a number of occasions prior to the shortages of 2021 seeking to enter into a long-term supply relationship with ITM. Had ITM entered into such a relationship, it would have had security of supply in the same way that CHH's customers had that had chosen to commit volumes to CHH.
12. The following sets out the facts to assist the Commission to put ITM's submissions in their proper context.

*(a) The shortages were caused by factors outside CHH's control*
13. As the Commission will appreciate, the shortages in 2021 were caused by factors wholly outside of the control of CHH (or any industry player). Namely they were caused by unprecedented demand for construction materials, compounded by the lost manufacturing capacity during Alert Level 4 lockdown in 2020, and builders doing more hours post lockdown to catch-up, plus stock-piling of timber by certain builders to secure their forward work.
14. CHH categorically refutes any suggestion by ITM that Carters stores stock-piled structural timber during this time, or that CHH's approach in any way contributed to any shortages experienced by ITM. To the extent ITM experienced shortages, ITM needs to reflect on its own approach to procurement of structural timber (see paragraph 21 **below**) from CHH.

*(b) Most ITM stores were not structural timber customers of CHH at the time*
15. While ITM's submission says that "CHH was then ITM's largest supplier of structural timber", in reality, at the time the 2021 supply issues began:
  - (a) CHH had been supplying approximately 26,000m<sup>3</sup> per annum of structural timber to ITM. Putting this in context, the national structural timber market at the time was approximately 700,000-800,000m<sup>3</sup> per annum;
  - (b) CHH was only a regular supplier to 11 of ITM's 96 stores (less than 12% of ITM's stores).
16. The fact that CHH was not a regular supplier to almost 90% of ITM's stores reflects:
  - (a) the approach that ITM had chosen to take to its procurement of structural timber at the time, namely to treat CHH as one of many structural timber suppliers and engage with CHH on a purely transactional basis - see paragraph 21; and
  - (b) CHH's production of structural timber accounts for less than half of the structural timber production in New Zealand (CHH estimates that there are 13 producers of structural framing timber operating 18 mills across NZ).
17. The public statements that ITM made at the time of the shortages reflect a very different perspective to the view that ITM is now seeking to advance to the Commission as part of the Market Study. Namely, at the time ITM said:<sup>1</sup>

"we have long-standing relationships with most other timber manufacturers throughout New Zealand, and we will continue to supply our builder customers with their ongoing framing timber requirements".

---

<sup>1</sup> (7 April 2021). Southern builders will cope with lack of timber supplies. Stuff. Retrieved from: <https://www.stuff.co.nz/business/124692822/southern-builders-will-cope-with-lack-of-timber-supplies>

## REDACTED VERSION

18. The change in ITM's statements likely reflect it trying to divert attention from its own procurement decisions (possibly in an effort to seek to divert its customers' attention to the reasons for ITM's issues).

*(c) CHH treats all customers fairly, including by having adopted a fair and objectively reasonable approach to allocation during the shortages of 2021*

19. CHH has long taken the approach of treating all customers fairly by conducting the trade between it and Carters at arm's length pricing, including by ensuring pricing fairness between Carters and other third-party customers (see Figure 1 **below**).

*[Figure 1 – Structural timber pricing to Carters and third party customers]*

[REMOVED]

20. CHH is clear that its commitment to treating all customers fairly extends to the approach it took to supply allocation during the structural timber shortages of 2021. During those shortages, CHH's approach reflected fair and reasonable criteria – CHH continued to supply customers that had provided purchase commitments to it.

21. In contrast to the commitments and volume certainty that Carters and PlaceMakers had provided CHH, while ITM seeks to submit that it was reliant on CHH's supply, the reality is that:

- (a) CHH had sought to enter into a supply contract with ITM to provide for committed demand and volumes;
- (b) but ITM instead continually treated CHH as a spot supplier of a commodity product (with its other supply alternatives) by choosing to not make any volume commitments to CHH, often switching supply volumes away from CHH with little or no notice, and with almost 90% of its stores not purchasing any regular volumes from CHH.

22. The most recent examples are from November 2020. Namely, CHH had offered a significantly increased volume of structural timber to ITM in July 2020. ITM chose not to increase its purchasing from CHH and subsequently reduced its structural timber purchases from CHH by moving the Thompson's ITM volumes from CHH to another timber supplier. CHH offered better terms to try to retain the business and Thompson's ITM initially agreed to stay with CHH. However, on 18 November 2020 Thompson's ITM advised CHH they would no longer be purchasing from CHH with immediate effect (i.e. overnight) which accounted for around 25% of the ITM volumes previously supplied by CHH.

23. Further recent examples of ITM moving structural timber volumes from CHH to other suppliers are:

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
24. While ITM seeks to assert that CHH "preferred supply to just the two vertical players", the reality is that CHH did what any rational commercial business would do, namely it supplied the downstream customers that it had agreed volume commitments with.
25. While ITM seeks to assert that CHH's vertical integration caused problems for ITM, CHH had approached ITM numerous times to lock-in committed supply - i.e. ITM could have "vertically integrated via contract" with CHH had it chosen to do so, which is a very common option that many businesses adopt to provide themselves with supply certainty. The fact that ITM chose not to is a procurement decision that it made – presumably because, prior to the shortages arising, it preferred the flexibility of treating its various different suppliers as commodity spot suppliers that it could purchase from on an ad hoc transactional basis. When the shortages occurred, ITM no doubt would have had customers that were disappointed that it could not fulfil their orders immediately, however, that was a result of ITM's procurement decisions. ITM needs to be open with its customers about that (rather than seeking to use the Market Study process to incorrectly shift attention for that).
26. Furthermore, not only did ITM make that decision prior to the supply shortages of 2021, but it is also continuing to do so. In particular:
- (a) While ITM states that "[t]here is still a shortage for the foreseeable future", as CHH has already advised the Commission, based on current forecasts for housing consents and its capacity expansion plans, CHH anticipates it will have sufficient capacity in the future, and therefore no supply shortage is anticipated for the foreseeable future.
  - (b) Reflecting that, CHH has approached its customers, including those who wanted volumes in Q1 last year, such as ITM, to offer structural timber volumes.
  - (c) Notwithstanding this, ITM has publicly stated that it remains disadvantaged from continuing lack of access to CHH's structural timber supply and that supply is still constrained. That is factually incorrect and CHH categorically denies this. As CHH advised the Commission in its 4 August 2022 letter prior to publication of the Commission's draft Market Study report, CHH has approached its customers, including those who wanted volumes in Q1 last year. CHH has offered to supply structural timber volumes to them. In relation to ITM specifically, CHH approached the ITM branch network and the ITM National Support Office offering to supply structural timber volumes. In response, ITM has told CHH that it is receiving supply from third parties and has sufficient volumes of structural framing timber already. CHH has been told by ITM, as recently as early October 2022, that [REDACTED] it has too much structural timber inventory in its network to warrant purchasing more from CHH. Those statements by ITM to CHH can be contrasted with ITM's statements in the Commission's conference on 28 September 2022 where it said that "*structural timber continues to remain in short supply. There has been some recent evidence of minor loosening from some mills but on the whole, it remains a constrained supply product for us*". This is another example of ITM's observed in-market behaviour being inconsistent with the submissions it is seeking to make to the Commission.
27. The Commission will readily see that ITM's observed behaviour, (i.e. not looking to enter into a committed volume contract with CHH), is not consistent with the behaviour of a customer that could

## REDACTED VERSION

truly be regarded as concerned about any vertical foreclosure issues. CHH is clear that it took a fair and justified approach during the 2021 supply issues, and that it has long taken the approach of treating all customers fairly.

### **Concluding comments**

28. CHH looks forward to continuing to assist the Commission on its Market Study, and we are available to provide more detail to the Commission on any of the points raised in this Submission.