

Before the Hearing Panel
Appointed by the Waimakariri District Council

Under the Resource Management Act 1991

In the matter of a hearing on submissions on the proposed Waimakariri District Plan

Hearing Stream 12E: Residential Rezoning – Rangiora

Rachel Hobson and Bernard Whimp

Submission number: 179

Further submission number: 90

Memorandum of Counsel on behalf of Rachel Hobson and Bernard Whimp

26 August 2024

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May it please the Commissioners

- 1 This memorandum is filed on behalf of Rachel Hobson and Bernard Whimp (the **Submitters**) in support of their submission seeking residential rezoning of the below (adjacent) land (**the Site**):
 - (a) 518 Rangiora-Woodend Road, Rangiora; and
 - (b) 4 Golf Links Road, Rangiora.
- 2 This memorandum responds to a question from the Chair at the Stream 12E – Residential Rezoning hearing on 21 August regarding scope.
- 3 The Submitters have sought that the Site be rezoned to General Residential (**GRZ**) through the proposed District Plan (**PDP**). Both the Submitters and the Reporting Officer have proceeded on the basis that either GRZ or Medium Density Residential Zoning (**MRZ**) is available. The Chair has queried whether there is scope for MRZ when the submitters have not made a submission on Variation 1 to the PDP, seeking MRZ.
- 4 In our submission there is scope for rezoning of the Site to MRZ.
- 5 The Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (**Amendment Act**) requires that every relevant residential zone must have the Medium Density Residential Standards (**MDRS**) incorporated. We note that this does not require that land be rezoned to MRZ, although that is the approach that a number of councils, including Waimakariri District Council (**Council**), have taken.
- 6 The Variation 1 public notice states (our **emphasis**):

The Amendment Act seeks to improve the housing supply in five of the largest urban environments in New Zealand and requires certain councils to adopt Medium Density Residential Standards (MDRS) in relevant residential areas.

In the Waimakariri District, these areas include Rangiora, Kaiapoi, Woodend (including Ravenswood) and Pegasus.
Within these areas, the General Residential Zone must be rezoned to Medium Density Residential Zone.
- 7 The section 32 assessment further provides (our **emphasis**):
 - (a) *Variations to the Proposed Waimakariri District Plan (PDP) are required to implement the NPS-UD and the Amendment Act requirements. For this reason, the s32 is prepared on the basis that the Amendment Act itself provided the evaluation of where the Medium Density Residential Standards (MDRS) must apply. This s32 evaluation focuses on areas that should be*

excluded from the density enabled by the MDRS (i.e. the 'Qualifying Matters') and how the MDRS fits within the PDP framework.¹

(b) Key changes proposed by this variation are:

- **Replace the General Residential Zone with the Medium Density Residential Zone in the Proposed District Plan in the relevant residential urban areas.**
- **Insert the new Medium Density Residential Standards into the Medium Residential Zone chapter in the Proposed District Plan.²**

(c) 3. SCOPE OF VARIATION³

3.1 Zones and Areas

Relevant residential zones to which the Amendment Act requirements apply are all residential zones as set out in the National Planning Standards;

...

In summary the MDRS applies as follows:

Table 1 – Summary of zones / areas that MDRS applies

Proposed District Plan Zone / Area Within MDRS	Scope?
General Residential Zone	Yes
...	...

(d) Section 77G directs the inclusion of objectives and policies (77G(5)) and MDRS provisions (s77G(1)) as set out in clause 6 of Schedule 3A. The variations that are proposed to the PDP provisions and planning maps to meet this direction are viewable within the ePlan. Provisions that have immediate legal effect are identified by the gavel symbol within the ePlan. A s80H Evaluation of how the Amendment Act (schedule 3A) provisions have been included in the PDP is enclosed at Appendix 2. Township maps

¹ Section 32 Report – Variation 1: Housing Intensification (Medium Density Residential Standards) at page 4

² Section 32 Report at page 4

³ Section 32 Report at page 8

showing the extent of the Medium Density Residential Zoning (MRZ) for Kaiapoi, Rangiora, Woodend (including North Woodend) and Pegasus are enclosed at Appendix 3. ⁴

- 8 Although the notified Variation 1 included planning maps showing the extent of the MRZ, that reflects only the land currently zoned GRZ and the land that Council now proposed be rezoned from Rural Lifestyle to a residential zoning (MRZ). It does not account for other submissions seeking GRZ through the PDP.
- 9 In our submission, it is clear that (except where subject to a qualifying matter) Variation 1 seeks to implement the MDRS by replacing PDP GRZ at Rangiora with MRZ. The Submitters have sought GRZ through the PDP, and it follows that if both that submission and Variation 1 are accepted, the PDP GRZ would be replaced by MRZ under Variation 1.
- 10 Our interpretation is consistent with the purpose of Variation 1, which is to give effect to the Amendment Act direction that the MDRS be incorporated into all relevant residential zones. If Council had retained the GRZ and sought to incorporate the MDRS into that zone (instead of applying an amended MRZ), we consider there would be no scope issue arising from those amended GRZ provisions then applying to the Site on its rezoning to GRZ under the PDP. The fact that Council has used the MRZ as the method of incorporating the MDRS should not then preclude application of the MDRS to the Site.
- 11 An alternative finding, that for areas where rezoning to GRZ is accepted through the PDP, subsequent zoning to MRZ is outside of the scope of Variation 1, has the potential to either:
 - (a) disenfranchise the Submitters' submission by accepting a zoning that no longer exists for Rangiora; or
 - (b) require a significant redraft of the PDP (incorporating Variation 1) to provide for a GRZ (without the MDRS) at Rangiora, noting that this outcome would be inconsistent with the Amendment Act.
- 12 If the Panel remains concerned that there is no submission seeking application of MRZ to the Site, we note that this is not fatal. RMA Schedule 1, clause 99(2) provides that:

The recommendations made by the independent hearings panel –

- (a) must be related to a matter identified by the panel or any other person during the hearing; but

⁴ Section 32 Report at page 24

(b) are not limited to being within the scope of submissions made on the IPI.

- 13 We agree with those who submit that, although the Panel is not limited by the scope of submissions, clause 99(1) confirms that recommendations must nevertheless be "on" the Variation. In our submission, that requirement is met. Variation 1 seeks to replace the PDP GRZ with MRZ. If the Panel has otherwise determined that the Site should be rezoned to GRZ through the PDP, applying MRZ to that PDP zoning is within the scope of Variation 1.

Dated 26 August 2024

A handwritten signature in cursive script, appearing to read "S Eveleigh", written over a horizontal line.

Sarah Eveleigh/Sarah Schulte
Counsel for the Submitters