

**BEFORE INDEPENDENT HEARING COMMISSIONERS APPOINTED BY THE
WAIMAKARIRI DISTRICT COUNCIL**

IN THE MATTER OF

The Resource Management Act 1991 (**RMA** or
the Act)

AND

IN THE MATTER OF

Hearing of Submissions and Further
Submissions on the Proposed Waimakariri
District Plan (**PDP** or **the Proposed Plan**) and
Variations 1 and 2 of the PDP.

AND

IN THE MATTER OF

Submissions and Further Submissions on the
Proposed Waimakariri District Plan by
**CAROLINA HOMES LIMITED, ALLAN
DOWNS LIMITED AND 199 JOHNS ROAD
LIMITED**

AND

IN THE MATTER OF

Hearing of submissions relating to
**RESIDENTIAL ZONE STREAM 7B
VARIATION 1 RESIDENTIAL
INTENSIFICATION**

**EVIDENCE OF CLAIRE MCKEEVER FOR CAROLINA HOMES LTD, ALLAN DOWNS
LIMITED AND 199 JOHNS ROAD LIMITED
(IN RELATION TO SUBMISSION #58 V1 RESIDENTIAL INTENSIFICATION)**

Dated: 30 AUGUST 2024

INTRODUCTION

- 1 My name is Claire Andrea McKeever.
- 2 I hold a Bachelor of Surveying with Honours from Otago University and I have 23 years' experience in land development in both surveying and planning disciplines. I have had 17 years of experience working in Resource Management (as a Planner) in both local government and private consultancy (since 2006).
- 3 I am a full Member of the New Zealand Planning Institute.
- 4 I have been an Associate at Eliot Sinclair Limited since 2019 and currently hold the position of Principal since 2023.
- 5 My expertise relates primarily to land development Resource Management for subdivision, rezoning and land use contexts across the Greater Christchurch and wider Canterbury region. Recently I presented evidence and attended hearings before the Independent Hearing Panel for the Proposed Waimakariri District Plan (PWDP) in relation to the Industrial Chapter rezonings (Stream 12A) and residential rezonings (Stream 12E A&B). I have attended and participated in Expert conferencing and Joint Witness Statements in relation to Hearing Stream 10A for the PWDP in relation to certification.
- 6 I have prepared various resource consent applications in the Waimakariri District since 2012, and have been involved in the Land Use Recovery Plan (LURP) rezoning of South West Rangiora under Canterbury Earthquake legislation on behalf of a developer client in partnership with Waimakariri District Council.
- 7 I also have a small amount of experience (in early – mid 2023) engaged as a Consultant processing subdivision resource consent applications on behalf of Waimakariri District Council's District Plan Implementation (Consents) Team to assist with Council workload at that time.
- 8 I have read the Environment Court's Code of Conduct and agree to comply with it. My qualifications as an expert are set out above. The matters addressed in my evidence are within my area of expertise, however where I make statements on issues that are not in my area of expertise, I will state whose evidence I have relied upon. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in my evidence.

SCOPE OF EVIDENCE

- 9 In my evidence I address the following report:
- (a) The 19 August 2024 s.42A Report relating to the Medium Density Residential Submissions, prepared by Mr Peter Wilson dated 19th August 2024, that recommends a change in maximum height limit for the Medium Density Residential Zone by way of introducing new qualifying matter and; proposes to address 'no vacant allotment' subdivision provisions by way of definition in Right of Reply.
- 10 This evidence is prepared to provide the Panel with clarification of the submitter's position following the Council Officer's s.42A recommendations on the various submission points raised.
- 11 In preparing this statement of evidence I have also reviewed the following reports for Stream 7A Residential Zones of the PDP, being:
- The s.42A report for Hearing Stream 7A: Proposed Waimakariri District Plan Residential and Large Lot Residential Zones prepared by Mr Andrew McLennan dated 16 August 2024,
 - The s.42A report for Hearing Stream 7A: Proposed Waimakariri District Plan: Medium Density Residential Submissions prepared by Mr Peter Wilson dated 19 August 2024.
- 12 I have used the following abbreviations:
- The Submitter (being Carolina Homes Limited, Allan Downs Limited and 199 Johns Road Limited)
 - The Site (being 163, 191, 199 and 203 Johns Road)
 - ODP (being Outline Development Plan)
 - The Panel (being the Independent Hearing Panel)
 - The Council (being Waimakariri District Council)
 - PDP (being the Proposed District Plan)
 - MDZ (being the Medium Density Zone PDP)
 - MDRS (Being the Medium Density Residential Standards V1)
 - The submission (being submission V1 #58 dated September 2022)
 - The Enabling Act (being the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021)
- 13 The Submitter **supports** the s.42A recommendations of the Council under Stream 7B in relation to the Medium Density Residential zone, and the Council recommendations in respect

of related subdivision rules for the zone, noting that it in respect of vacant allotment subdivision, the specifics of the rule (or proposed definitions) have not yet been resolved and that Council's recommendation proposes to defer a further response on this submission point to the Right of Reply.

- 14 The Submitter **seeks to clarify** their position in relation to submission points where the Council recommendation differs from that which was previously submitted on by the Submitter.

SUBMISSION CONTEXT

- 15 This evidence is provided on behalf of the Submitter who made submissions on both the Proposed Waimakariri District Plan (PDP) Submission #266 and Submissions #58 & #68 on Variations 1 and 2 to the PDP.
- 16 I have prepared this evidence in relation to the s.42A Report recommendation for Medium Density Residential Submissions, Stream 7B, by Mr Peter Wilson, separate to the submitter evidence for Stream 7A, due to Stream 7A including the V2 Financial contribution aspect of the submission.
- 17 For the submitters, the recommendations of both Stream 7A and 7B are interlinked in relation to outcomes for the submission site.
- 18 The original submission on the PDP in 2021 (Submission #266) requested the rezoning of the Site to be a combination of General Residential Zone (GRZ) and Medium Density Zone (MDZ), with an updated proposed Outline Development Plan (ODP) to be inserted in the PDP specific to the Site. The submission provided broad support to the notified Residential zone provisions of the PDP¹ at that time.
- 19 Subsequent to the PDP submission, in 2022, Council (in discussions with the Submitter) notified the Site to become one of two sites in Rangiora to be proposed to be rezoned MDRS as part of Variation 1 process. The Submitter lodged a submission on Variation 1 (Submission # V1 58 attached as **APPENDIX A**) to support the inclusion of the land under MDRS as proposed by Council. The submission also broadly supported the notified MDRS provisions, however opposed the specific subdivision related rules for the MDRS, and; in respect of Variation 2, opposed particular wording of Financial Contribution Standards².

¹ For which Evidence is also being submitted to be considered in Stream 7A.

² For which Evidence is also being submitted to be considered in Stream 7A.

- 20 At the time, in regard to rezoning, I considered that Variation 1 effectively accepted the original PDP submission requesting rezoning, while also effectively superseding it and upzoning the entire site to MDRS under V1. This is still the case, however, I had not anticipated the nuances of the potential outcome for two Medium Density zones in the District Plan as a potential result of separate planning processes.
- 21 For the Submitter, the potential outcome for the site under both submissions (and both planning processes) remains fundamentally the same, ideally a residentially zoned site, with a suitable ODP, ability to continue to subdivide to create vacant greenfield allotments and clear direction on potential future costs if Financial Contributions (under the RMA) are to be added for growth related development. (Noting that these are in addition to the existing Development Contribution framework charged under the LGA for growth). Whether one or both Medium Density zones (MDZ and /or MDRS) apply, or; the outcome is a suitably integrated hybrid of both, a clear framework that does not overly complicate a future resource consent process for subdivision to create vacant greenfield allotments is the overarching outcome that is sought by the Submitter.
- 22 This being the case, I consider that there is broad agreement between the Submitter and Council on the V1 MDRS recommendation to the extent that there are not specific matters in contention, rather, the Officer's recommendations presents a further opportunity for collaboration on the subdivision rule of the submission for the zone in regard to the Officer's Right of Reply report, assuming of course that approach is agreeable to the Panel.

SUBMITTER CLARIFICATION TO RECOMMENDATIONS OF THE SECTION 42A REPORT ON SUBMISSION POINTS

Recommendation by Section 42A Report Medium Density Residential Submissions 19 August 2024

- 23 The submission has been treated as roughly 10 specific submission points that have been either rejected, accepted or accepted in part by the Officer recommendations. Given the submission was broadly in support of V1 MDRS provisions, I thought it useful to clarify the Submitter position on the recommendations, primarily in the instance where the Submission has been rejected.

Qualifying Matters (Submission point 58.2) and District Wide Matters (Submission point 58.3)

- 24 The submission has been grouped into a set of submissions as relating to *'spot' qualifying matters*³ for submission point 58.2 which the Officer's Recommendation ultimately rejects⁴.
- 25 The submission point 58.2 was that: *Agrees that the site at 163,191, 199 & 203 Johns Road, Rangiora should not be subject to any qualifying matters, specifically, those specified in the Amendment Act and those justified via assessment in the Amendment Act (s77G to s77R).*
- 26 As notified by V1, the site was not subject to any proposed qualifying matters, which the submission simply stated agreement with. The Recommendation rejects the submission point on the basis of *proposing a new qualifying matter* for sunlight access and shading that will apply to the zone across the District, not specifically only to the submission site.
- 27 The new qualifying matter, being used as a method to reduce the maximum dwelling height from 11m+1m for roof down to 8m+1m, effectively to change MDRS maximum height limit from enabling three storey dwellings to enabling two storey dwellings only, is strongly supported by the Submitter, based on the reasons for the proposed change as assessed in the s.42A report.
- 28 Given this will result in a better outcome for all future residents of the District, the Submitter accepts the qualifying matter recommendation to apply to the site, despite it being contrary to the notified version of MDRS that the Submission supported at the time.
- 29 For completeness, submission point 58.3 *agreed with the assessment of District Wide matters ... of the Variation 1 Section 32 report and supports the inclusion of District-wide matters within the PDP.* Therefore the recommendation to apply the a new District wide matter, that includes the site in a District- wide context, is consistent with the submission.

Vacant Allotment Subdivision and Land use consent for Permitted Activities (Submission point 58.8)

- 30 The notification of V1 MDRS zone amended the subdivision rule for the zone and proposed that the subdivision rule SUB R2-3(b)(i) and 3(b)(ii) requires no vacant sites will be created.
- 31 SUB R2 3(b)(i) also proposed wording that requires *the subdivision application is accompanied by a land use application that will be determined concurrently*⁵ with the

³ On page 22 at subclause 142.

⁴ At recommendation 6.4.3, subclause 244. on Page 42.

⁵ My emphasis added

subdivision application that demonstrates it is practicable to construct, as a permitted activity, a residential unit on every site, and that no vacant sites will be created.

32 The proposed Rule for subdivision in the MDRS zone as notified by V1 is as follows:

Sub-R2	Subdivision	
<p>Medium Density Zone</p>	<p>Activity Status: CON Where: 2. SUB S1 to SUB18 are met, except where: a. the allotment is for any unstaffed infrastructure, accessway or road; b. the subdivision is of a fee simple allotment from an approved cross lease site, where the exclusive use areas shown on the existing cross lease plan are not altered, and where only SUB-S5 will apply; c. the subdivision site is a reserve created under the Reserves Act 1977, or any esplanade reserve allotment; or 33 d. where otherwise specified in this chapter.</p> <p>3. Either: a. for every site <i>with an existing residential unit⁶</i>, either: i. the subdivision does not increase the degree of any non-compliance with the built form standards of this zone; or ii. land use consent for the non-compliance has been granted. b. for every site <i>without an existing residential unit</i>, either: i. <i>the subdivision application is accompanied by a land use application that will be determined concurrently with the subdivision application that demonstrates that it is practicable to construct, as a permitted activity, a residential unit on every site and that no vacant sites will be created</i>; or ii. every site (including sites that are subject to a legal mechanism restricting the number of residential units which can be erected): 1. is practicable to construct as a permitted activity a residential unit; and 2. complies with the built form standards of this zone for each residential unit constructed; <i>and</i></p>	<p>Activity status when compliance not achieved: As set out in the relevant subdivision standard for SUB S1 to SUB S18.</p> <p>Activity Status when compliance not achieved with SUB-R2(2a): DIS</p> <p>Activity status when compliance not achieved with SUB-R2(2b): DIS</p>

⁶ With my *emphasis* added to the rule

	<i>3. no vacant allotments are created;</i>	
	<p>For the purpose of 3(a)(i), if a subdivision is proposed between residential units that share a common wall, the requirements as to height in relation to boundary in the district plan do not apply along the length of the common wall.</p> <p>Notification An application for a controlled activity under this rule is precluded from being publicly or limited notified.</p>	

36 The wording of the Rule 3. closely follows Schedule 3A Part 1 General: Clause 8 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act.

37 The specific Subdivision provisions of Schedule 3A in Part 1 "General" are as follows;

Subdivision Requirements

7. General Subdivision Requirements

Any subdivision provisions (including rules and standards) must be consistent with the level of development permitted under the other clauses of this schedule, and provide for subdivision applications as a controlled activity.

8. Further rules about subdivision requirements

Without limiting clause 7, there must be no minimum lot size, shape size, or other size-related subdivision requirements⁷ for the following:

(a) any allotment with an existing residential unit, if—

- (i) either the subdivision does not increase the degree of any non-compliance with the density standards in the district plan (once incorporated as required by section 77G) or land use consent has been granted; and*
- (ii) no vacant allotments are created:*

(b) any allotment with no existing residential unit, where a subdivision application is accompanied by a land use application that will be determined concurrently if the applicant for the resource consent can demonstrate that—

- (i) it is practicable to construct on every allotment within the proposed subdivision, as a permitted activity, a residential unit; and*
- (ii) each residential unit complies with the density standards in the district plan (once incorporated as required by section 77G); and*
- (iii) no vacant allotments are created.*

9. Rules about common walls

For the purposes of clause 8(a)(i), if a subdivision is proposed between residential units that share a common wall, the requirements as to height in relation to boundary in the district plan (once incorporated as required in section 77G) do not apply along the length of the common wall.

⁷ With my *emphasis* added to Schedule 3A

- 38 The Submission opposed the wording of the rule because it effectively requires all subdivisions to be undertaken on a building commitment basis, (where the buildings must come first), and that would treat all subdivisions seeking to create vacant allotments as a discretionary (innominate⁸) activity.
- 39 As described in the Submission, the Submitter land owner (and TFL Developer) develops Greenfield land, to provide vacant sections to the housing market for future landowners to invest in their proposed dwelling. The submitter does not, and does not intend, to also build the houses after having invested in the roading, servicing and infrastructure that is required for greenfield subdivision. The submission therefore sought the removal of the 'no vacant allotment' parts of the rule, given that it does not suitably provide for the greenfield development option in the Medium Density Zone.
- 40 The Submission accepted that it is reasonable, at the time of a subdivision application, to demonstrate that a complying dwelling could be accommodated on a vacant site that was being proposed.
- 41 The recommendation report accepts the submission point in part, on the basis that the Officer's interpretation⁹ of the proposed rule is that: *I consider it means an allotment that will never have a residential unit built on it, as in permanently vacant, rather than requiring the first developer – the subdivider of the land – to develop all sections themselves. I support clarifying what 'vacant allotment' means in this context to address the submitter's concern.*
- 42 In the context of the rule written as a whole, given it is the specific and only rule for subdivision in the Medium Density zone, and it specifically refers to sites with and without dwellings, with due respect, I do not agree with the Officer's interpretation. I have never come across a subdivision that would create a residential section in a residential zone that is intended to be permanently vacant, so I would not think to read the rule in that way. The only permanently vacant allotments are usually vested as reserve or road, provided for access, or for power kiosks, and those would already be excluded by the earlier part of the rule SUB-R2 2a. above.
- 43 I am encouraged however, that the Officer agrees that some sort of clarification should be provided to ensure that the point raised in the submission is addressed, to enable vacant allotments to be created by the subdivision, especially by the 'first developer' as is the case in a greenfield situation.

⁸ Noting that no activity status is proposed for non-compliance with sub-clause 3 of the rule.

⁹ Appendix Table of submission point responses, V1 58.8 page 202 of the report pdf.

- 44 I am further encouraged, because from an ongoing consenting point of view, further clarification can also provide the opportunity to change current wording of the rule so that it does not inadvertently prevent greenfield subdivision "vacant" allotments, or; unnecessarily push them to a Discretionary activity, bearing in mind that the Enabling Act intent is for subdivision in the zone to be a Controlled activity. Being vacant does not change the intent that each vacant allotment is to be able to accommodate up to three permitted dwellings under zone rules.
- 45 I am not convinced however, that providing a new definition for 'vacant allotment' will achieve the necessary clarification. The Submission proposed alternative wording that simply deleted the offending phrases of the rule¹⁰. The Officer's report does not offer any recommendation on the submission's suggested re-wording of the rule, which, given the recommendation was an acceptance in part, I understand this to mean that the submitted wording must be the part of the submission point that is not accepted.
- 46 If that is the case, there is another alternative method to both the definition and deletion options to resolve the submission point that would be clearer about the intent of the proposed vacant allotment, while also addressing confusing wording that requires a land use consent for a permitted activity that was also raised in the same submission point.
- 47 I recall that Variation 1 of the Proposed Selwyn District Plan also notified a subdivision rule for the Medium Density Zone in way that was the similar (if not the same wording depending which was notified first) as Waimakariri's proposed notified V1 version. Both Councils based the rule on the wording of Clause 8 in the Enabling Act. Selwyn's proposed rule also attracted similar opposing submissions. Since then, the Selwyn Independent Panel's Hearings have been held, a recommendation made and the Council decision has been notified, further, appeals have closed quite some time ago.
- 48 The "Partially Operative Selwyn District Plan" has therefore dealt with the same submission issue and the proposed rule has been changed through Selwyn's hearing process. I note that Selwyn's replacement subdivision rule is Operative and is not subject to appeal, according to the Appeals Version online. The Selwyn rule¹¹ for subdivision in the Medium Density Zone is as follows:

¹⁰ Page 6 of the Submission in Appendix A.

¹¹ <https://eplan.selwyn.govt.nz/review/rules/0/288/0/8331/0/185>

Sub-R1	Subdivision in the Residential Zones	
MRZ	<p>Activity Status: CON 5. Subdivision to create any site intended for the construction and use of a residential unit.</p> <p>Where:</p> <ul style="list-style-type: none"> a. Every vacant site (other than a site used exclusively for access, reserves or infrastructure, or which is wholly subject to a designation) has: <ul style="list-style-type: none"> i. A dimension not less than 16m x 23m; and ii. A building square of not less than 8m x 15m. <p>And this activity complies with the following rule requirements: SUB-REQ3 Outline Development Plan SUB-REQ6 Access SUB-REQ7 Walkable Blocks SUB-REQ8 Corner Splays SUB-REQ9 Water SUB-REQ10 Wastewater Disposal SUB-REQ13 Conditions Precedent</p> <p>Matters for control: 6. The exercise of control in relation to SUB-R1.5 is reserved over the following matters: <ul style="list-style-type: none"> a. All matters set out in SUB – Matters for Control or Discretion; and b. Where any vacant site is created. <ul style="list-style-type: none"> i. NH-MAT3 Geotechnical Considerations. </p> <p>Notification: 7. Any application arising from SUB-R1.5 shall not be subject to public or limited notification and shall be processed on a non-notified basis.</p>	<p>Activity status when compliance not achieved: 7A. When compliance with any of SUB-R1.5 is not achieved: DIS unless any of SUB-R12, SUB-R13, SUB-R13A, SUB-R14 or SUB-R15 apply.</p> <p>8. When compliance with any rule requirement listed in this rule is not achieved: Refer to SUB – Rule Requirements.</p>

- 50 The terminology where the Selwyn Plan has referred to “Subdivision – Requirements” (SUB-REQ) is similar to where Waimakariri has “Subdivision Standards” (SUB – S1 to SUB- S18) and the general format could be easily replaced to suit other Waimakariri PDP Subdivision Standards and provisions such as overlays or qualifying matters where relevant.
- 51 The Selwyn example specifically includes allotment dimensions and building square requirements that are not specified as “minimum” thresholds, thus respecting Part 1 Clause 7 of the Enabling Act above. The dimensions specified (as “not less than”), ensure that any vacant allotment created is easily able to contain a permitted dwelling as required by Clause 8 of the Enabling Act.

52 Further, by simplifying the wording similar to the Selwyn example, it would have the added benefit of removing the confusing wording from the Enabling Act that requires a concurrent “land use consent” to demonstrate a “permitted activity” in conjunction with each subdivision application. Given this point was also opposed as part of the submission, I consider there is scope to resolve both points by revised the wording of the rule.

53 I note that the reporting Officer does not make any specific recommendation in regard to the second part of the submission point relating to the issue of a ‘land use consent for a permitted activity’.

Minimum allotment size (Submission point 58.9)

54 The MDZ notified PDP subdivision rules required a minimum vacant allotment size of 200m² at the time of subdivision. The V1 MDRS standards have no minimum site area requirement for subdivision and the Submission opposed this change, seeking that the minimum allotment size be reinstated for vacant allotments to continue to guide development in the MDRS zone to achieve good urban design outcomes.

55 The recommendation of the Council is that this submission point be rejected, on the basis that it considers it to be one of the non-negotiable parts of the legislation regarding density¹².

56 Given the specific wording of Clause 7 of the Enabling Act above, I accept it is appropriate for Council to reject this Submission point.

57 For completeness, in reviewing the Selwyn example described above, it is clear to me that the Partially Operative Selwyn District Plan steps a fine line *not* to include any minimum allotment size in the subdivision chapter, or implied density provisions elsewhere in Medium Density Zone rules. The Subdivision rule above simply enables an applicant to easily be able to create a vacant allotment without the need for building plans, typologies of standard houses and ensures (in a practical and less costly way) that the dimensions specified will at least enable vacant allotments to achieve the 15 houses per hectare minimum density adopted by the Selwyn District Plan for Greenfield ODP areas (if one dwelling were built on each allotment). I note it also provides a Discretionary consent pathway if smaller ‘dimensioned’ vacant allotments are proposed.

58 The dimensions used by Selwyn District Council would create a vacant allotment of at least 368m², which is comparable to the Christchurch District Plan’s New Neighbourhood zone (used for Greenfield sites) of 330m² minimum and 400m² on corner lots. The New

¹² Appendix V1 58.9 page 204 of the S42A report pdf document

Neighbourhood zone has been required by the CRPS to achieve 15hha since the Canterbury earthquakes, which I confirm is achievable in all of the Christchurch based greenfield developments I have been involved with since using those 'minimum allotment sizes' on the basis of the current one dwelling per allotment context in the City¹³.

- 59 As notified in the PDP, the Subdivision Standard SUB-S3 continues to apply under V1, to require *that Residential subdivision of any area subject to an ODP ... shall provide for a net density of 15 households per ha, unless there are demonstrated constraints then no less than 12 households per hectare.*
- 60 Noting that Waimakariri has also proposed a 5hha requirement for the development of greenfield areas subject to an ODP, the same as Selwyn has, the above rule framework could equally work in the Waimakariri context.
- 61 The Submission site will be subject to an ODP, and as per my evidence for Stream 12E, the removal of a minimum site size from the subdivision chapter by MDRS provisions will enable a developer the flexibility to provide both larger and smaller allotments in a development provided the overall net density can be met. A possible rule, using the Selwyn example framework (or similar to it) would provide clarity, and still achieve the subdivision standard for minimum net density as required by SUB – S3 as a Controlled activity.

Other submission points

- 62 All other VI MDRS Submission points have been accepted by the recommendation report, or that the Submission made neutral comments on, such that no other changes were required or needed a recommendation to be made.

SUMMARY OF CONCLUSIONS

- 63 Overall, and given all of the above, I consider that the Council recommendation for the Medium Density Zone (MDRS) under Stream 7B under the Proposed District Plan continues to be appropriate for the Submission site, and overall, the Submitter **continues to support** the proposed zone, with the new proposed amendments for clarification changes and for the new qualifying matter relating to shading that limits maximum heights of future dwellings.
- 64 I consider a revision of Rule SUB -R3 rule to be a practical alternative that could benefit from hindsight and the recent Selwyn process on the same issue. If there is scope to do so, it could

¹³ The Christchurch District Plan does not yet accommodate the Enabling Act provisions.

be conferenced with Further Submitters that supported the Submission's opposition to the original rule (if any) and could be addressed in the Officer's Right of Reply.

65 If it is determined by the Panel not to be in not in scope, there continues to be scope to simply remove the wording in its basic form, as was proposed in the Submission.

66 I am happy to continue working with Council on any post-hearing amendments if there is an opportunity to do so.

67 Thank you once again for the opportunity to present my evidence.

Claire McKeever

A handwritten signature in black ink, appearing to read 'CMK', with a large, stylized flourish at the end.

Date: 30 August 2024

APPENDIX A: SUBMISSION #58: VARIATION 1 & 2 2022

9 September 2022

Waimakariri District Council
Private Bag 1005
Rangiora 7440

Our reference: 503245

Attention: Waimakariri District Council Planning Department

Submission on Variation 1: Housing Intensification, and Variation 2: Financial Contributions

Purpose of Submission

This letter is a joint submission on Variations 1 and 2 to the Proposed Waimakariri District Plan prepared by Eliot Sinclair & Partners Limited on behalf of 199 Johns Road Ltd, Carolina Homes Ltd, Carolina Rental Homes Ltd, and Allan Downs Ltd (hereon 'the Submitters').

The Submitters will not gain an advantage in trade competition through this submission.

The Submitters wish to be heard in support of this submission and would agree to consider presenting a joint case with other submitters who make a similar submission.

Background

The Submitters made a joint submission (Ref: #266) on the Proposed Waimakariri District Plan (hereon 'PWDP') to Waimakariri District Council (hereon 'Council') on 26 November 2021. This submission sought to rezone the site at 163, 191, 199, & 203 Johns Road, Rangiora from proposed Rural Lifestyle Zone (RLZ) to proposed General Residential Zone (GRZ) and Medium Residential Density Zone (MRZ).

The previous submission (Ref: #266) is still relevant in conjunction with this submission in so far as it demonstrates the site is suitable for residential re-zoning. It is considered that Council accepts this position and now proposed re-zoning for the site as Medium Density Residential Zone.

Submission

This submission has been prepared following Council's notification of Variation 1: Housing Intensification, and Variation 2: Financial Contributions, to the PWDP in response to the Medium Density Residential Standards.

This submission seeks to voice the Submitter's support to the Council proposal to now re-zone the site at 163, 191, 199, & 203 Johns Road, Rangiora from General Residential Zone (GRZ) and Medium Residential Density Zone (MRZ) to Medium Density Residential Zone (MRZ –

Variation 1) as part of the Intensification Streamlined Planning Process (ISPP). We note the rezoning of the site has "legal effect"¹.

This submission also seeks to voice the Submitter's general support of Variation 2: Financial Contributions.

Where the Submitters are neutral or oppose specific provisions, these are also provided below.

Specific details and reference to provisions within the PWDP Variation 1 and Variation 2 are provided below.

Specific Provisions

The Submitters support the following provisions:

- Supports the inclusion of the submitter's South West Rangiora site being re-zoned as Medium Density Residential Zone to implement the Medium Density Residential Standards. Specifically, supports the change from 'South West Rangiora Development Area' to Medium Density Residential Zone (MRZ).
- Agrees that the site at 163, 191, 199, & 203 Johns Road, Rangiora should not be subject to any qualifying matters, specifically, those specified in the Amendment Act and those justified via assessment in the Amendment Act (s77G to s77R).
- Agrees with the assessment of District-Wide Matters as listed on Page 25 of the Variation 1 Section 32 Report and supports the inclusion of District-Wide Matters within the Proposed Waimakariri District Plan.
- Supports amending SUB-R2 to have immediate legal effect if there is no qualifying matter.
- Support the inclusion of South West Rangiora and the Outline Development Plan as an Area Specific Matter in Part 3 as an Existing Development Area.
- The Submitter's support the inclusion of Financial Contributions as a separate chapter within the Proposed Waimakariri District Plan.

This is on the basis that financial contributions are accounted for separately to development contributions but are offset by development contributions in the first instance. Financial contributions are for the upgrade of existing infrastructure to remedy and mitigate development capacity effects.

- The Submitter's support FC-P1 in the provision of infrastructure on the basis that it limits financial contributions applicability to existing infrastructure only, and does not apply to new greenfield infrastructure installed as part of a new greenfield subdivision as new infrastructure is designed to cater for the appropriate zone.

The Submitters hold a neutral position of the following provisions:

- The removal of objectives, policies, standards, and rules to implement the Medium Density Residential Standards.
- The addition of objectives, policies, standards, and rules to implement the Medium Density Residential Standards.

¹ Variation 1 Section 32: Appendix 2 – Table of how MDRS are Incorporated into the PDP by Variation 1 (S80H Evaluation)

The Submitters oppose the following provisions:

- Opposes wording for subdivision within the Medium Density Zone (under Rule SUB-R2 (3)(b)(i) and (ii)) which effectively requires all subdivisions in the zone to be undertaken on a "building commitment" basis and would accordingly treat a subdivision seeking vacant allotments in the Medium Density Zone as a Discretionary Activity.

The reason for the opposition of this proposed rule is that there is significant investment in providing reserves, civil, and roading infrastructure in the construction of a greenfield subdivision. For this reason, not all developers choose to construct the housing within their development on finished sections, but instead provide vacant sections to the property market that allow the community to invest in housing of their own choice. This also shares the burden of the development cost of building with the wider community. The submitter is an experienced developer whose modus operandi (model of development) is to provide sections only; not the final housing product. This also differentiates their product from other subdivision developments in Rangiora undertaken by other developers who choose to provide land and house packages.

It is considered unreasonable for the Medium Density Zone to only allow controlled subdivision activities where they are in conjunction with residential buildings, particularly given the legislation enables 'up to three houses' on a site which also reasonably includes the provision of one (or two) houses on a vacant site. The creation of a vacant section does not therefore warrant an overall full Discretionary Activity status and should be able to be considered on a Controlled Activity status basis. It remains appropriate that a controlled activity subdivision that creates a vacant section be able to demonstrate that a dwelling can feasibly be constructed on the site, but this should not need additional consents or to be built prior to the completion of the subdivision itself.

The proposed wording of the rule that is opposed (with emphasis added) is as follows:

"...

3(b) For every site without an existing residential unit, either;

- the subdivision application is accompanied by a land use application that will be determined concurrently with the subdivision application that demonstrates that it is practicable to construct, as a permitted activity, a residential unit on every site, **and that no vacant sites will be created;** or*
 - every site (including sites that are subject to a legal mechanism restricting the number of residential units which can be created);*
 - is practicable to construct as a permitted activity a residential unit; and*
 - complies with the built form standards of this zone for each residential unit constructed; and*
 - no vacant allotments are created."***
- Opposes wording for subdivision within the Medium Density Zone under Rule SUB-R2 (3)(b)(i) which specifically requires a land use consent to be applied for and concurrently assessed with a controlled subdivision application in the

zone on the basis that land use consents **cannot be issued under the RMA for Permitted Activities**. This does not lead to efficient and effective district plan administration nor consider the additional associated cost to the community incurred by the proposed consent process, which is meant to be streamlined, more permissive and enabling.

The wording of the proposed rule that is opposed (with emphasis added) is as follows:

3(b) For every site without an existing residential unit, either;

- i. *the subdivision application is accompanied by a land use application that will be determined concurrently with the subdivision application that demonstrates that it is practicable to construct, as a permitted activity, a residential unit on every site, and that no vacant sites will be created; or*

- Opposes the removal of minimum allotment sizes under Rule SUB-S1 and table SUB-1 for the “Medium Density Residential Zone (without qualifying matters)”.

In the case where a residential unit does not exist on the site, subdivision in the Medium Density Zone to create a vacant allotment (as submitted above) will still require a minimum site size to be specified in order to continue to achieve current Canterbury Regional Policy Statement requirements of at least 10 houses per hectare (as a minimum).

The proposed minimum of 200m² for the zone has been removed in lieu of no minimum site size being specified for the purpose and construction and use of residential units. This continues to be appropriate with the building commitment model, but is less so when providing some guidance on the minimum size site a house can reasonably be constructed on.

Inclusion of minimum site size for vacant site subdivision would maintain existing and future amenity. This ensure that inappropriate and unanticipated density is avoided and intended amenity outcomes are preserved. It is noted that the Medium Density Residential Standards do not provide for urban design discretion to maintain onsite urban amenity associated with medium density. Therefore, the minimum allotment size is important to support best practice urban design principles.

- Oppose the activity status of Rule DEV-SWR-R1 as a Permitted Activity.

The Submitter's oppose this activity classification on the basis that development is in accordance with an outline development plan and it is typically undertaken at the time of subdivision with road and reserve vesting, and site layout design guided by the outline development plan as a Controlled Activity.

A change from Permitted Activity to Controlled Activity status would better align the subdivision amendments requested above.

- Oppose the inclusion of Fixed outline development plan features that specifically relate to the wider West Rangiora development area which is not being specified as an Existing Development Area within the PWDP.

The Submitter's oppose this on the basis that the location of medium density over the whole site and specific locations for some required features (E.g Oxford Road, Lehmans Road, stormwater corridor to the east, etc) are outside of the outline development plan area are not relevant to the subject site.

- Oppose the inclusion of the Outline Development Plan for West Rangiora in its current form.

The Submitter's oppose the inclusion of this plan as it creates an inconsistency with the current South West Rangiora Outline Development Plan.

- The Submitter's oppose FC-S1.

This is on the basis that:

FC-S1 is inconsistent with the FC-O1, FC-O2, FC-P1, and FC-P2, which require the remediation and/or mitigation of effects on Council infrastructure and the environment in contrast to the avoidance of effects on Council infrastructure and the environment. The inclusion of a provision to charge a financial contribution to "any reasonable cost to avoid" is potentially more expensive than options to remedy or mitigate capacity effects. We consider that remedying and mitigating effects on infrastructure capacity is appropriate.

FC-S1 does not specify that the financial contribution calculation assessment will take account of previously made development contributions at the time of subdivision, housing, or development. This needs to be clearly stated as part of the assessment.

- The Submitter's oppose FC-S4.

This is on the basis that it includes subjective assessment that proposes to charge financial contributions for "any potential additional lots that could develop". The financial contribution should be charged on the development (housing or subdivision stage) at the time of physical development when the actual effect can be quantified. It is not appropriate to charge for future potential development, and therefore, should be aligned with the development contribution policy.

Submission and Decision Sought

No discussion or further comment has been provided for the specific provisions of Variation 1 and Variation 2 to the Proposed Waimakariri District Plan where the Submitters support or are neutral of the proposed changes.

Where the Submitter's oppose specific provisions of Variation 1 and Variation 2 to the Proposed Waimakariri District Plan, the decision sought is to amend the proposed wording is as follows:

Medium Density Residential Zone	Activity Status: CON	Activity status when compliance not achieved: as set out in the relevant subdivision standards for SUB-S1 to SUB-S18.
	Where: 2. SUB-S1 to SUB18 are met, except where: a. the allotment is for any unstaffed infrastructure, accessway or road; b. the subdivision is of a fee simple allotment from an approved cross lease site, where the exclusive use areas shown on the existing cross lease plan are not altered, and where only SUB-S5 will apply;	Activity status when compliance not achieved with SUB-R2(2a): DIS

	<p>c. the subdivision site is a reserve created under the Reserves Act 1977, or any esplanade reserve allotment; or</p> <p>d. where otherwise specified in this chapter.</p> <p>3. Either:</p> <p>a. for every site with an existing residential unit, either:</p> <ol style="list-style-type: none"> i. the subdivision does not increase the degree of any non-compliance with the built form standards of this zone; or ii. land use consent for the non-compliance has been granted. <p>b. for every site without an existing residential unit, either:</p> <ol style="list-style-type: none"> i. the subdivision application is accompanied by a land use application that will be determined concurrently with the subdivision application that shall demonstrate that it is practicable to construct, as a permitted activity, a residential unit on every site and that no vacant sites will be created; or ii. every site (including sites that are subject to a legal mechanism restricting the number of residential units which can be erected): <ol style="list-style-type: none"> 1. is practicable to construct as a permitted activity a residential unit; and 2. complies with the built form standards of this zone for each residential unit constructed; and 3. no vacant allotments are created; <p>For the purpose of 3(a)(i), if a subdivision is proposed between residential units that share a common wall, the requirements as to height in relation to boundary in the district plan do not apply along the length of the common wall.</p> <p>Notification</p> <p>An application for a controlled activity under this rule is precluded from being publicly or limited notified.</p>	<p>Activity status when compliance not achieved with SUB-R2(2b): DIS</p>
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It is requested that a minimum allotment size be required for any new allotment created by subdivision within the Medium Density Residential Zone. This minimum allotment size should be consistent with that included in the Proposed Waimakariri District Plan in Table SUB-1 – Minimum Allotment Sizes and Dimensions.

DEV-SWR-R1 Southwest Rangiora Development Area Outline Development Plan	
Activity status: PER-CON Where: 1. development shall be in accordance with DEV-SWR-APP1.	Activity status when compliance not achieved: DIS

Appendix
DEV-SWR-APP1 Southwest Rangiora ODP
<p>Land Use Plan</p> <p>The Outline Development Plan for the South West Rangiora located within [...]</p> <p>[..] Fixed Outline Development Plan Features for the South West Rangiora Development Area:</p> <ul style="list-style-type: none"> • Location of a concentration of medium density residential activity (meaning a minimum ratio of 70% medium density residential zone density and a maximum 30% general residential zone density) immediately adjoining the new north/south road. • Location of the local/neighbourhood centre at the juncture of Oxford Road and the north/south road • Green link with cycleway adjoining the north/south road • Location of stormwater corridor at eastern edge of the West Rangiora Development Area • Separated shared pedestrian/cycleway at Johns Road and southern part of new north/south road • Cycleways at Oxford Road, the new north/south road, Johns Road, Lehmans Road and southern flow path • Integrated road connections with 77A Acacia Avenue, Beech Drive, Walnut Way and Sequoia Way. • Flow paths and adjoining green links and cycleways, including any required water body setbacks

The Submitter's seek to have the South West Rangiora Outline Development Area included as proposed in Appendix 1 of DEV-SWR-APP1 South West Rangiora Outline Development Plan.

The Submitter's request that the West Rangiora Outline Development Plan in DEV-WR-APP1 be updated accordingly to be consistent with DEV-SWR-APP1.

Policies	
FC-P1	<p>Provision of Infrastructure</p> <p>Financial contributions are required where housing intensification, subdivision, and development or both have an adverse environmental effect on existing infrastructure, which requires capacity increases, upgrades or other modification to the infrastructure ahead of the scheduled maintenance/replacement program, or outside the scope of scheduled maintenance/replacement programme.</p>

Financial Contribution Standards	
FC-S1	<p>1. The District Council will issue a Financial Contribution Calculation Assessment (which will be valid for three years from the date of issue) that specifies:</p> <ol style="list-style-type: none"> a. all reasonable costs incurred or to be incurred in providing the service, utility or facility (including but not limited to; any legal, survey, design, planning, engineering costs and disbursements); b. any reasonable costs to avoid, remedy or mitigate any effects on the environment from intensification, and subdivision; c. the value of and/or the costs of acquiring any or interest in any land required for the service, utility, facility or reserve; d. an allowance or adjustment for inflation; and e. an allowance for the overhead costs of the Council and/or any costs associated with servicing Council expenditure in providing or upgrading a service or facility. f. <u>The calculation and credit (if applicable) that takes account of payments made under the Council's Development Contributions Policy, and determines the offset value to be paid as a financial contribution (if any).</u>

Financial Contribution Standards

FC-S4

1. As part of the District Council Financial Contribution Calculation Assessment for roading the following calculation methodology will be used:
 - a. assess whether the upgrade of extension to or new roading infrastructure required is already accounted for in the growth component allowed for in the Development Contributions policy;
 - b. if not provided for in the Development Contributions policy, the cost of the upgrade extension or new roading infrastructure will be calculated by Council;
 - c. the percentage contribution required to be paid by the development will be calculated as follows: vehicle movements per day generated by the development divided by vehicle movements per day of the development ~~plus vehicle movements per day of any potential additional lots that could develop plus average daily traffic~~: **$\% \text{ Rooding financial contribution} = \frac{\text{vmpd development}}{\text{vmpd development} + \text{vmpd potential new lots} + \text{current average daily traffic}}$**
 - d. where new roads are required, the financial contribution will be based on a unit rate per kilometre of new road multiplied by the number of new lots divided by the existing lots plus proposed new lots; and
 - e. where land is required to be vested for roading purposes, the area of land, the value of the land, and it's proposed classification, shall be specified by Council.

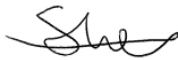
Summary

The Submitters have made a previous submission (Ref: 266) on the Proposed Waimakariri District Plan to request the re-zoning of the site at 163, 191, 199, & 203 Johns Road, Rangiora from the proposed Rural Lifestyle Zone (RLZ) to proposed General Residential Zone (GRZ) and Medium Residential Density Zone (MRZ).

The purpose of this submission is to voice the Submitters support in rezoning 163, 191, 199, & 203 Johns Road as Medium Density Zone (RRZ) through the ISPP process.

The Submitters generally support Variation 1 and Variation 2 to the Proposed Waimakariri District Plan, the technical reports prepared which contribute to the overall findings outlined in Section 32 Report (Variation 1 and Variation 2 Documents), and the overall summary which concludes "*there is no impediment to rezoning North East and South West Rangiora*" as Medium Density Residential Zone (MRZ) to enable the Medium Density Residential Standards. The Submitter's request small amendments to proposed rules as outlined in this Submission.

Yours sincerely



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