Before the Hearings Panel
At Waimakariri District Council

Under	Schedule 1 of the Resource Management Act 1991
In the matter of	the Proposed Waimakariri District Plan
Between	**Various**
	Submitters
And	**Waimakariri District Council**
	Respondent

Council Officer's Preliminary Response to written questions on Subdivision - urban on behalf of Waimakariri District Council

Date: 12 April 2024

INTRODUCTION:

1 My full name is Rachel McClung. I am employed as a Principal Planner for Waimakariri District Council.

2 The purpose of this document is to respond to the list of questions published from the Hearings Panel in response to my s42 report.

3 In preparing these responses, I note that I have not had the benefit of hearing evidence presented to the panel at the hearing. For this reason, my response to the questions may alter through the course of the hearing and after consideration of any additional matters raised.

4 Following the conclusion of this hearing, a final right of reply document will be prepared outlining any changes to my recommendations as a result of evidence presented at the hearing, and a complete set of any additions or amendments relevant to the matters covered in my s42A report.

5 The format of these responses in the table below follows the format of questions identified in within the Commissioner's minute.

6 The following is a key of the proposed amendments:

7 Appearance Explanation

Appearance	**Explanation**
Black text	Text as notified
Red text with underlining or ~~strikethrough~~	Amendments recommended in section 42A report or reply report.

Blue text with underlining or ~~strikethrough~~	Additional amendments recommended by this initial Reply Report.

8 I am authorised to provide this evidence on behalf of the District Council.

Date: 12 April 2024

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Paragraph or Plan reference	Question
Para 69	**There are also other Overlays within the PDP that apply to section 6 matters (outstanding natural landscapes and features, natural character, indigenous biodiversity, public access). Have you considered whether it may be appropriate to define conservation values, given this is a term that is used in the Subdivision Chapter?**
I acknowledge that there are other section 6 matters for which overlays in the plan apply that are not within this objective. I was trying to establish the origins of the policy, but my rationale may be incorrect. Yes, I had considered including a definition. However, I had considered that those involved in plan implementation for subdivision would be familiar with s229 of the RMA. If a definition was to be included, I had considered that it should link to the purpose within s229 as follows: Conservation values: has the same meaning as section 229(2) of the RMA. I consider this addition would be within scope of Forest and Bird [192.79] as providing a definition addresses their concerns regarding the terminology used.	
Para 71	**The Panel notes that NATC-P4(4), ECO-MD1 and ECO-MD2 use the term indigenous biodiversity values. Does this affect your assessment?**
In para 71 my disagreement with Forest and Bird [192.70] was primarily in relation to their reason provided within the original submission, which was: *"This chapter / objective introduces a term that is not used throughout the plan and is not defined, conservation values. This objective should use consistent terminology with other chapter such as ECO. Rather than use conservation values this chapter should use or also use indigenous biodiversity values".*	

I acknowledge that the amendments they sought to the objective within their original submission did not strike out 'conservation values'. To me this appeared to be mismatched with their reasons and therefore I felt the need to address the reason for the submission also.

I did not agree with their view to replace 'Conservation Values' with 'indigenous biodiversity values' as I considered it was important that a subdivision objective includes conservation values due to the purpose of esplanade reserves and strips in s229.

As they raised the issue of consistency with terms used elsewhere in the plan, I considered their suggestion of 'indigenous biodiversity values' against the terms used within the Ecosystems and Indigenous Biodiversity chapter. Indigenous Biodiversity was the term used within the Objective and policies, but not 'indigenous biodiversity values'.

I had considered the matters of discretion. ECO-MCD3 is listed as a matter of discretion under SUB-S9. However, ECO-MD1 and ECO-MD2 are not listed as a matter of discretion within the subdivision chapter. ECO-MCD3 does uses the term 'indigenous biodiversity'.

I had not gone as far as considering NATC-P4(4).

I considered that Conservation Values needed to remain in the policy because that is a term used within the SUB-chapter, but that Indigenous Biodiversity values were not necessary given the ECO Objectives and policies covered Indigenous Biodiversity.

I acknowledge that I have not yet had the benefit of being able to read the ECO s42A which was originally scheduled for March but moved to a later date. There may be recommendations within that report, and in the evidence presented at that hearing, that could have implications for my opinion here. However, at this point of the hearing, I consider there would be no nuisance or mischief with including the term 'indigenous biodiversity' or 'indigenous biodiversity values' within SUB-O1 (3) if the panel were minded to do so. And there would be scope within Forest and Bird [192.70] to do this.

Para 73	**In your assessment, have you considered a territorial authority's function under s31 RMA to maintain indigenous biodiversity.**

	Should the Subdivision objectives contain a stronger (more direct) reference to indigenous biodiversity?

Yes, I did. s31 (1)(b)(iii) states that every Territorial Authority shall give effect to the RMA through the control of any actual or potential effects or potential effects of the use, development, or protection of land, including for the purpose of the maintenance of indigenous biodiversity values. Of interest to me was the absence of 'subdivision' from that list of 'use, development, or protection of land'.

However, s31(2) does state that the methods used to carry out any functions under subsection (1) *may* include the control of subdivision for the purpose of the maintenance of indigenous biodiversity values. Therefore, the use of subdivision as a method is at the discretion of the Territorial Authority. The PDP has used subdivision as a method through both SUB-R8 (Restricted Discretionary activity status for a bonus allotment in Rural Zones) and SUB-R9 (discretionary activity status for subdivision within a Significant Natural Areas (SNA) overlay). Due to the activity status attached to these rules, and the reference within the Introduction to the SUB-Chapter, I considered that the ECO-chapter objective and policies would be considered in decision making for any subdivision consent triggered under these rules.

As previously discussed, SUB-R8 lists ECO-MCD3 as a matter of discretion, and ECO-MCD3 does uses the term 'indigenous biodiversity'.

For these reasons, I did not consider the direct reference within SUB-O1 was necessary. However, as previously stated there would be no nuisance or mischief with including the term 'indigenous biodiversity' or 'indigenous biodiversity values' within SUB-O1 (3). And this is within the scope of Forest and Bird [192.70].

Paras 97 and 98	**Should the recommendation for MainPower [249.204] and KiwiRail[FS99] not be 'accept'?**

I recommended that both MainPower [249.204] and KiwiRail [FS99] be accepted in part because the relief they seek was altered due to amendment that I recommended in response to Waka Kotahu [275.28]. In re-reading my assessment in pars 90-96, I can see where the confusion would arise, para 96 should read:

I recommend that the Waka Kotahu [275.28] submission and KiwiRail further submission [FS99] be accepted in part subject to amendments made in response to other submissions. 'In part' was missing.

Paras 106-108	**You address Forest & Bird submission point on used of 'conservation values' but not addressed whether the protection of indigenous biodiversity should be included in SUB-O3. Please advise.**

SUB-O3 specifically relates to Esplanade reserves and esplanade strips. Section 229 of the RMA outlines the purposes of esplanade reserves and esplanade strips as follows:

229 Purposes of esplanade reserves and esplanade strips
An esplanade reserve or an esplanade strip has 1 or more of the following purposes:
(a) to contribute to the protection of conservation values by, in particular,—
(i) maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or
(ii) maintaining or enhancing water quality; or
(iii) maintaining or enhancing aquatic habitats; or
(iv) protecting the natural values associated with the esplanade reserve or esplanade strip; or
(v) mitigating natural hazards; or
(b) to enable public access to or along any sea, river, or lake; or
(c) to enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river, or lake, where the use is compatible with conservation values.

I acknowledge that esplanade reserves and esplanade strips can have benefits to indigenous biodiversity, but the protection of Indigenous Biodiversity is not referenced within s229. Therefore, I consider that it is not required within SUB-O3.

Para 132	**Do you consider there may be some merit in the submission that the words *"has the potential to…* restrict the operation, etc …." are added into Clause 3, to reflect that subdivision in itself may not have actual effects, but it is rather the resultant development that has effects?**

On further reflection, yes I agree that the addition of 'potential' would be appropriate to reflect that it is not the subdivision itself, but the subsequent land use and development that would have actual effects.

I have commented on the evidence provided by Ms Clare Dale with respect to this provision and believe both the addition above and the relief Ms Dale seeks can be addressed together in the change I recommend below. I consider there is scope within Kainga Ora [325.154] for this change.

SUB-P1	**Design and amenity** Enable subdivision that: 1. within Residential Zones, incorporates best practice urban design, access to open space, and CPTED principles; 2. minimises reverse sensitivity effects on infrastructure including through the use of setbacks; 3. is managed in a way to avoids ~~subdivision that restricts~~ potential restrictions on or compromising the operation, maintenance, upgrading and development of the National Grid; 4. recognises and provides for the expression of cultural values of mana whenua and their connections in subdivision design; and 5. supports the character, amenity values, form and function for the relevant zone.

Para 137	**Did you consider the objectives and policies in the PDP that include "anticipated built form and purpose" and "character and amenity values anticipated for the zone" when responding to Kāinga Ora [325.154]?**

Yes, I had considered UFD-P1 (Density of Residential Development) which includes 'anticipated built form and purpose'. I had also considered SD-O1 (Urban Form) that includes 'planned urban form and amenity values', as well as other numerous objectives and policies that include 'character and amenity values'.

My assessment within para 138 stated that deleting character and amenity value would be inconsistent with many objectives and policies across the District Plan. In the interest of reducing the length of my report, I did not list them all.

A search of the EPlan for 'character and amenity' highlights 13 objectives/policies that contain 'character and amenity, including; TREE-O1, NOISE-P1, NOISE-P2, SIGN- O1, SIGN-P4, LLRZ-O1, LLRZ-P2, GRZ-P1, MRZ-P1, SETZ-P1 and INZ-P4, as well as rules and maters of discretion within the chapters for Natural Character of freshwater bodies, Earthworks, Temporary Activities, Residential Zones, Open Space Zones and Pegasus Resort.

Para 138	**Would deletion of the words "character" and "amenity values" and their replacement with "anticipated form and**

	function …" also have a potentially unintended consequence of removing any consideration of the existing form and function of the relevant zone?
Yes. I agree that the deletion of the words 'character and amenity values' may mean that plan users do not place emphasis on existing character and amenity of the relevant environment, if considered to be a relevant matter. SUB-P1 will apply to areas both within and outside of areas that are relevant residential zones under the Enabling Housing and Other Matters Amendment Act. An example of an area outside a relevant residential zones would be residential zones in Oxford.	
Para 153	**Your answer addresses MRZ-R18 and MRZ-P1(3). Have you considered how SUB-P1 aligns with RECZ-P3 and how it relates to multi-unit development in the General Residential Zone?**
My reference in para 153 to SUB-P1 is incorrect and should read SUB-P2 which is the policy being assessed. I apologise for the confusion. Also, I have assumed that the reference to RECZ-P3 in the question is RESZ-P3. In my assessment I provided MRZ-18 and MRZ-P1(3) as an example of alignment with SUB-P2 (incorrectly referenced as SUB-P1). GRZ-R19 (multi-unit residential development in the GRZ) and GRZ-P1(3) is another example of alignment of SUB-P2 with the rule framework in residential chapters. RESZ-P3 (safety and well-being) requires CPTED principles to be taken into account in design. This aligns with SUB-P1(1) (design and amenity) that enables subdivision with Residential Zones that incorporates best practice urban design, access to open space and CPTED principles. RESZ-P3 also aligns with the direction in SUB-P2(1)(b) to 'support the achievement of high quality urban design principles for multi-unit residential development'. RESZ-P3 is a general residential policy that applies to all residential zones. It would be considered for multi-unit developments within both the MRZ and GRZ given the Restricted Discretionary Activity status of both MRZ-18 and GRZ-19 and that RES-MD2 (Residential deign principals) is listed as a matter of discretion for both rules.	

Para 157	**Should Mixed Use Zones be in your recommended clause 4?**
I agree that clause 4 of SUB-P2 should read '4. In Commercial and Mixed Use, and Industrial zones'. This would more appropriately reflect the naming of the Commercial and Mixed Use Zones chapter in the PDP and encapsulate the range of zones within that chapter.	
Para 168	**Are you saying here that climate change is the sole reason for SUB-P3(3), or one of its purposes? While there might not be a link to a permitted activity rule, have you considered whether there are any linkages to any of the matters of discretion, for instance SUB-MCD2, 5 and 6? If you do think there is a linkage, do you still recommend "where appropriate" is maintained**

No, climate change isn't the sole reason for SUB-P3(3). Other reasons include manging stormwater and natural hazards, which can be exacerbated by climate change, but will require management regardless.

In drafting my recommended change to SUB-P3 I considered that including 'where appropriate' next to promotes under (3) would provide flexibility for (a) and (b) and but that it would always be appropriate to consider (c) and (d), which link to matters within MCD-2, 5 and 6. I see now that this drafting is not as tight as it could be and recommend that 'where appropriate' is moved to within (a) and (b) so not to diminish the importance of (c) and (d). I consider there is scope within Kainga Ora [325.157] for this change.

SUB-P3	**Sustainable design** Ensure that subdivision design: 3. maximises solar gain, including through: a. road and block layout; and b. allotment size, dimension, layout and orientation; 4. in Residential Zones, Commercial and Mixed Use Zones, and Open Space and Recreation Zones, supports walking, cycling and public transport; and 5. promotes ~~where appropriate~~: a. water conservation, where appropriate b. on-site collection of rainwater for non-potable use, where appropriate c. water sensitive design, and d. the treatment and/or attenuation of stormwater prior to discharge, and 6. recognises the need to maintain the design capacity of infrastructure within the public network and avoid causing flooding of downstream properties~~.~~; and 7. recognises and provides for the ability to adapt and respond to the effects of climate change and environmental pressures.

Para 184	**The Panel notes that SUB-S1 defaults to a discretionary activity. Does this policy support a discretionary activity status where the lot doesn't comply with the minimum size? What would such a resource consent be assessed against?**
SUB-P5 does not support a discretionary activity status as set out in SUB-S1 for the Medium Residential Density Zone, any Industrial Zone, and Special Purpose Zone (Kaiapoi Regeneration). Table 1 specifies a minimum allotment size for each of these zones for which there are minimum allotment sizes specified for these zones. Industrial Zone and Special Purpose Zone (Kaiapoi Regeneration) are not Residential Zones and therefore SUB-P5 isn't relevant to these zones. Para 184 was limited to consideration of submissions on SUB-P5. However, when assessing a resource consent for a discretionary activity, all relevant objectives and policies of the Plan come into consideration. I consider that SUB-P1 and SUB-P2[1], as well as SPZ(KR)-P2 and SPZ(KR)-P3 (specific to the Kaiapoi Regeneration area) would be relevant considerations for assessing subdivision. These policies give support for the discretionary activity status as they identify functional matters that could be considered in making a decision to go below the minimum allotment size.	
Para 206	**Could it be that the intent of the Ministry of Education submission is to demonstrate that there are sufficient education facilities to service the subdivision and additional families that live therein, rather than provide for education facilities within the ODP? If so, would you amend your recommendation?**
If that is the intent, I still would not amend my recommendation. SUB-P6 addresses criteria for Outline Development Plans. It is appropriate to consider if land is to be set aside for educational facilities, as provided for by my recommended amendment to SUB-P6 (2)(b)(i). The District Plan can provide rules to enable educational facilities to be established, but the sufficient provision of those educational facilities is not a Territorial Authority function. It is the role of the Ministry of Education. In addition to the enabling rules for education facilities within a District Plan, the Minister of	

[1] Commercial and Industrial zones are covered by my recommended amendment to SUB-P2 which recognises design and operational requirements.

Education has the status of a Requiring Authority and has that avenue within the RMA to address provision of educational facilities.

Furthermore, all of this does not prevent a developer from discussing requirements for educational facilities with the Ministry of Education. It may well be attractive to a developer to show provision for educational facilities, as then the development would be more desirable to families. SUB-P6, with my recommended change to clause (2)(b)(i) provides for this.

Para 214	**While the WRCDM23 is stated as supporting the 15 hh/ha threshold, from where was the (lesser) 12 hh/ha standard taken and how was it rationalised?**

SUB-P6(2)(c) relates to New Residential Development Areas. My understanding is that New Residential Development areas are those listed within the Development Areas Chapter within the Proposed District Plan and are West Rangiora, North East Rangiora, South East Rangiora and Kaiapoi.

I could not find reference this particular aspect of SUB-P6(2)(c) within the subdivision s32 report.

In reading section 5.3 of 'Our Space', the expectation is that a minimum density of at least 12 household per hectare will be achieved where any Future Development Area is subsequently zoned. At the time of drafting the Proposed District Plan, Our Space was the relevant Future Development Strategy.

Our Space has been replaced by the Greater Christchurch Spatial Plan (GCSP) which was recently adopted by Council. The GCSP itself does not specify households per hectare. However, the Greater Christchurch Housing Development Capacity Assessment July 2021[2] informed the development of the GCSP and states that Our Space (2019) provided density scenarios and anticipated yields from the FUDAs at 12hh/ha and 15hh/ha. But that a 15hh/ha density yield was now selected based upon an independent review of greenfield densities commissioned by the Greater Christchurch Partnership and undertaken by Harrison Grierson Limited[3]. This report concluded that any identified constraints and issues can be overcome to enable the minimum net densities to be increased to 15hh/ha to optimise greenfield land and meet the

[2] https://greaterchristchurch.org.nz/assets/Documents/greaterchristchurch/Capacity-Assessment-reports-2021/Greater-Christchurch-Housing-Development-Capacity-Assessment-July-2021.pdf, page 6

[3] https://www.greaterchristchurch.org.nz/assets/Documents/greaterchristchurch/reports/Greater-Christchurch-Partnership-Greenfield-Density-Analysis-Technical-Report-Final_Optimized.pdf, page 103

longer term housing demand profile. Further to this, the report identified that at a District level there is a small shortfall of 867 households in Waimakariri should the FUDA's be at a density of 12hh/ha, but a surplus of 580 households if a density of 15hh/ha is achieved[4]. The FUDA's are West Rangiora, North East Rangiora, South East Rangiora and Kaiapoi.

It is possible that the identified shortfall is likely to change through recommendations on rezoning submissions that will be heard in Stream 12, as the GCSP assessment did not take into account submissions on the Proposed District Plan.

As, you acknowledge, 15 hh/ha is supported by the WRCDM23. 12 hh/ha is not reference in this document. I discussed this question with Mr Yeoman who prepared the WRCDM23. He does not support a minimum of 12hh/ha in these locations and therefore did not include 12 hh/ha within his assessment. In my discussions with Mr Yeoman, he has offered to prepare a memo or respond to this question further when he appears at the Stream 12 rezoning hearings.

Para 225	**As notified, subclause (i) requires the applicant to show how other 'potential adverse effects' will be avoided, remedied or mitigated. CIAL seek an amendment to 'show how more than minor adverse effects will be avoided, remedied or mitigated". In your opinion, what is the difference between these two and which would you prefer and why?**

I understand the relief sought by CAIL (254.47) to be slightly different as explained in the question. My understanding is that CAIL seek an addition to (i) and then a new clause (j).

The original submission of CAIL (below) sought more than minor adverse effects be avoided and other minor or less than minor effects be managed.

[4] https://greaterchristchurch.org.nz/assets/Documents/greaterchristchurch/Capacity-Assessment-reports-2021/Greater-Christchurch-Housing-Development-Capacity-Assessment-July-2021.pdf, page 7

i. show how other potential adverse effects ~~on and/or~~ from ~~nearby~~ existing or designated strategic infrastructure (including requirements for designations, or planned infrastructure) will be avoided, remedied or mitigated, recognising the functional need for infrastructure to be located in particular places, and the fact that this infrastructure pre-dates the residential development in the area.

j. show how more than minor adverse effects on existing or designated strategic infrastructure (including requirements for resignations, or planned infrastructure) will be avoided, and other minor or less then minor effects will be managed~~,~~;

However, this position moved to all reverse sensitivity effects being avoided in the statement of Evidence of Mr Kyle to Stream 10A.

J Kyle comment / recommendation
... i. *show how other potential adverse effects ~~on and/or~~ from ~~nearby~~ existing or designated strategic infrastructure (including requirements for designations, or planned infrastructure) will be avoided, remedied or mitigated, recognising the functional need for infrastructure to be located in particular places.* j. *show how reverse sensitivity effects on strategic infrastructure will be avoided, acknowledging that in some case the utilisation of that infrastructure will increase over time.;*

What is the difference between 'potential adverse effects' and 'more than minor adverse effects'?

Potential adverse effects includes the full range of adverse effects. This includes adverse effects that are less than minor, minor, more than minor, significant or unacceptable.

'More than minor' adverse effects are adverse effects that are noticeable that may cause an adverse impact but could be potentially mitigated or remedied.

Which would you prefer and why?

It is my view that limiting the policy to 'more than minor' adverse effects being avoided, remedied or mitigated is more reasonable than requiring avoidance, remedy or mitigation of all potential adverse effects.

I am of this view as this would then exclude avoidance of adverse effects that are noticeable but would not cause any significant adverse impacts (minor adverse effects), or those adverse effects that are too small to adversely affect other persons (less than minor). Given these types of adverse effects do not cause significant adverse impact or are too small to adversely affect others, I do not see the need to avoid them altogether. These types of adverse effects would be more appropriately managed or mitigated (if management or mitigation was needed).

I acknowledge that SUB-P6(b)(i) has been written in a way to give effect to the RPS Policy 6.3.3(9) which states *'Show how other potential adverse effects on and/or from nearby existing or designated strategic infrastructure (including requirements for designations, or planned infrastructure) will be avoided, remedied or appropriately mitigated;'.*

Note – I consider significant adverse effects are that are noticeable and will have a serious adverse impact on the environment but could potentially be mitigated or remedied. Whereas, Unacceptable adverse effects cannot be avoided, remedied or mitigated.

Para 231	**To what extent is your recommended clause consistent with the RPS and the NH objectives and policies, particularly considering the different treatment between high and other hazard areas?**

I have addressed the RPS provisions within paras 226 to 231. NH-O1 (risk from natural hazards) provides specific direction to when natural hazards should be managed, avoided or mitigated for new subdivision. NH-P1 to NH-P9 provide specific direction for subdivision of land subject to natural hazards. NH-P2 and NH-P3 are specific to High Hazards.

I consider that the clause I recommend provides the ability to consider the full range of directions within these policies.

I discussed this question and my reply with Mr Willis, who was the author of the Natural Hazards s42A report. We agreed that the clause could be strengthened by adding the below:

m. show how the adverse effects associated with natural hazards are to be avoided, remedied or mitigate, as appropriate to the hierarchy set out in the natural hazards chapter.

Para 234	**Does the ECO chapter include relevant objectives, policies and rules that would be considered through an ODP process? What is the link between these? Why is it appropriate that cultural and historic heritage features and values, which are also subject to separate chapters in the PDP, are identified, enhanced or maintained, but indigenous biodiversity is not?** **Also, we note that the reporting officer for the Contaminated Land Chapter has recommended amending CL-P3 to insert "including ecological values" in response to a submission from Ecan which sought clarification of the term "natural values". Have you considered this recommended amendment in responding to the Forest and Bird submission point?**

I consider that the link between the ECO chapter objectives, policies and rules to the ODP process would be if there is a mapped Significant Natural Area (SNA) on the subject site. RPS Policy 6.3.3 (Development in

accordance with outline development plan)[5] clause 5 does include significant natural values, which I consider would be addressed through consideration of the Mapped SNA area.

5. *Identify <u>significant</u> cultural, <u>natural</u> or historic heritage features and <u>values</u>, and show how they are to be protected and/or enhanced;* [my emphasis added]

Clause 2(d) of SUB-P6 replicates this approach but does not limit the consideration to 'significant'.

d. identify any cultural, <u>natural</u>, and historic heritage features and <u>values</u> and show how they are to be enhanced or maintained; [my emphasis added]

I acknowledge that without 'significant' at the front of clause (d), as it is in RPS Policy 6.3.3 (5), the link to natural values and significant natural areas is not immediately obvious. However, in the context of the development of a particular ODP, the planning maps would be a starting point for identify values within the site and I consider the link would be clearer.

I take your point that there is no differential as to why cultural and historic heritage features and values should be considered, while indigenous biodiversity is not. However, I consider that indigenous biodiversity will be considered through the inclusion of natural values within clause (2)(d).

Thank you for drawing my attention to the recommendation to include 'ecological values' within CL-P3. I consider that ecological values come within the umbrella of 'natural values'.

I also wish to point out that similarly to V1 and Residential, I have not had the benefit of seeing the ECO s42A report, or submitter evidence to that hearing to inform my opinion here.

Para 251	**How are these fixed and flexible elements differentiated in the ODPs?**
The fixed elements of an ODP are described in the relevant Development Area Chapter Appendix with the ODP. Elements that are not listed are flexible.	

[5] Identify significant cultural, natural or historic heritage features and values, and show how they are to be protected and/or enhanced;

Para 264	**Can you please outline what the scope is to delete "such as financial contributions", given the relief sought by Waka Kotahi.** **Further, the phrase 'proportional to the benefit received' would appear to be dealing with cost sharing between landowners being served by the infrastructure, so it this not a useful part of the policy to ensure equity between the parties?**

The relief sought needs to be read in the context of the whole submission by Waka Kotahi.

At paragraph 6 the submission sets out high level comments on the plan and with respect to the Subdivision Chapter, states (bold emphasis added):

A key issue for Waka Kotahi with the subdivision chapter is in relation to the provision of transport infrastructure upgrades, and the requirement or expectation for Waka Kotahi to fund these (fully or partially). **Waka Kotahi is unable to receive financial contributions from developers**, and there is a risk through the subdivision process that funding falls through, resulting in upgrades being unable to be completed and adverse effects not appropriately addressed. Several suggestions are made to the proposed provisions so that these requirements or expectations on funding arrangements are removed.

Accordingly, the removal of "such as financial contributions" is within scope of the submission.

The term 'proportional to the benefit received' was meant to relate to the share between the developer and the owner of the infrastructure.

The inclusion of the words "or otherwise provide for cost-sharing or other arrangements for any upgrade" within the policy already enables cost sharing between landowners.

Accordingly, the additional words recommended to be deleted are unnecessary.

Para 283	**It is not usual practice to require 'boundary adjustments' to comply with minimum site sizes given the practical issues they are often dealing with (such as severance by a road or a river or rectifying physical occupation that doesn't align with**

	legal boundaries). By doing so, many such subdivisions may default to non-complying under this approach. Does SUB-MCD1 not safeguard against the concerns you raise?
That is not my experience as a Planner. In my experience, generally there are requirements to meet minimum site sizes of the relevant zone, as otherwise 'undersized' sites could be created. I have commonly experienced this when potential clients who own two or more rural lots seek to undertake a boundary adjustment so they can sell on the smaller lot but retain the larger area for farming. Without the requirement to meet the zone size minimum this would be possible. In my experience, typically there are exclusions for infrastructure or road reserves. This is provided for in SUB-R2 in clause (1), but not within SUB-R1. I should have addressed this exclusion to SUB-R1 when SUB-S1 was added. Thank you for drawing my attention to this. I have proposed a change to Table SUB-S1 in my response to the question on para 297 below which I consider resolves this issue. I note that in the Mr Hodgson references my recommended change to SUB-S1 in his evidence, stating that my recommended change achieves the 'link' to minimum lot sizes expressed in SUB-S1[6]. Mr Hodgson has considerable experience in rural planning matters also. Also, I am aware that Mrs Harris has provided relevant examples of her experience within her statement.	
Para 297	**Please explain the intent of SUB-R2 – is it the intent that either SUB-S1 to SUB-S18 are met, or clauses a to d apply? Also, if clauses a to d are met then would this potentially make the subdivision in those circumstances a Permitted Activity, i.e. it is no longer a Controlled Activity?**
The intention of SUB-R2 is that subdivision would not be a permitted activity. It would be a controlled activity. The activity status when compliance is not achieved with a standard is set out in the standards. I see now that there is an issue with the exclusion being attached to SUB-R2, rather than SUB-S1 or Table SUB-1. Table SUB-1 already provides a list of exclusions which can be rationalised and added to.	

[6] https://www.waimakariri.govt.nz/__data/assets/pdf_file/0019/161506/STREAM-8-TABLED-EVIDENCE-4-SUBMITTER-295-FS-47-HORICULTURE-NZ-VANCE-HODGSON-HODGSON-PLANNING-CONSULTANTS.pdf, para 16

I have discussed this issue with Mrs Harris and Mr Buckley and we agree that the below recommended changes resolve this issue and improve plan implementation. I consider there is scope within Transpower [195.95], Mainpower [249.213] and Elliot Sinclair [233.1] to make this amendment.

SUB-R2	**Subdivision**	
All Zones	**Activity status: CON** Where: 1. SUB-S1 to SUB-S18 ~~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~~ ~~d. otherwise specified in this chapter.~~ **Matters of control/discretion are restricted to:** SUB-MCD1 - Allotment area and dimensions SUB-MCD2 - Subdivision design SUB-MCD3 - Property access SUB-MCD4 - Esplanade provision SUB-MCD6 - Infrastructure SUB-MCD7 - Mana whenua SUB-MCD8 - Archaeological sites	**Activity status when compliance not achieved: as set out in the relevant subdivision standards**

	SUB-MCD10 - Reverse sensitivity SUB-MCD13 - Historic heritage, culture and notable trees **Notification** An application for a controlled activity under this rule is precluded from being publicly or limited notified.	

Table SUB-1: Minimum allotment sizes and dimensions

The following shall apply:

a) For unit title or cross-lease allotments, the allotment area shall be calculated per allotment over the area of the parent site.
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) Minimum areas and dimensions of allotments in Table SUB-1 for Commercial and Mixed Use Zones, Industrial Zones and Residential Zones shall be the net site area.
d) Allotments for unstaffed infrastructure, accessway or road, excluding for any balance area, are exempt from the minimum site sizes in Table SUB-1.
e) the subdivision site is a reserve created under the Reserves Act 1977, or any esplanade reserve allotment.

I have recommend changing the bullet points to letters for ease of future reference, but this change isn't showing in the above tracked changes.

Para 305 to 315, SUB-R4	**Some submitters are seeking the default activity category to be lower to restricted discretionary. Your position is that non-complying should remain given the subject matter (hazard risk to life and property). However, to remain a restricted discretionary activity in flood hazard areas, condition 1 requires the identification of a building platform on the scheme plan. That automatically means that any subdivision that isn't taking place to create a building platform would become non-complying. Given such subdivisions are unlikely to exacerbate hazard risk, is this appropriate? A similar issue would appear to arise with SUB-R6.**

I have discussed this question with Mr Buckley who is responding to a similar question on SUB-R3 and has considered the submissions on SUB-R6 within the rural s42A report.

Changing the wording of the rule to only require a building platform for a 'natural hazard sensitive activity' would mean that this is then triggered for those activities listed within that definition. I therefore recommend the following amendment:

SUB-R4	**Subdivision within flood hazard areas**	
Urban Flood Assessment Overlay **Non-Urban Flood Assessment Overlay** **Coastal Flood Assessment Overlay**	**Activity status: RDIS** Where: 1. Where a subdivision is proposed that intends to have a natural hazard sensitivity activity, a building platform is identified on the subdivision plan; and 2. if located within the non-urban flood assessment overlay, the building platform is not located within a high flood hazard area; and 3. if located within the coastal flood assessment overlay, the building platform is not located within a high coastal flood hazard area; and 4. SUB-S1 to SUB-S18 are met. **Matters of discretion are restricted to:** Matters of control/discretion listed in SUB-R2 SUB-MCD5 - Natural Hazards	**Activity status when compliance with SUB-R4 (1) not achieved: NC** **Activity status when compliance with SUB-R4 (2) or SUB-R4 (3) not achieved: NC** **Activity status when compliance with SUB-R4 (4) not achieved: as set out in the relevant subdivision standards**

I consider this amendment would be within the scope of Nicholas Hoogeveen [202.3] as it will reduce the activity status to RDIS for those subdivisions where a natural hazard sensitive activity is not intended.

Mr Buckley has similar amendments for the provisions that he is addressing.

Para 366	**Please provide specific reasons why discretionary activity status is not appropriate, i.e. could those concerns/potential effects not also be considered as part of an application for a discretionary activity?** **In considering this issue, is Policy 1(a)(i) of the NPS-UD relevant here? The approach appears to restrict the ability of people to have a larger section if they so choose.**

Given the short to medium term sufficiency margin within the WRCDM23 is sitting at only 220[7], I am reluctant at this point in the hearing to recommend reducing the activity status from non-complying to discretionary. If the minimum yields are not met as anticipated, then I consider it is likely that the District will have a housing shortfall which will not meet the needs of our Community. The consequences of this could be increased over-crowding within homes, increased homelessness, increases in property values due to demand that in turn increase the unaffordability of homes, and the District not being an attractive place to live.

NPSUD Policy 1(a)(i) does direct planning decisions to contribute to well-functioning urban environments that as a minimum have or enable a variety of homes that meet the needs. Not having enough homes would not meet the needs.

If the sufficiency margin is eased through the rezoning hearings, and the capacity model assumptions have allowed for this scenario, then I would reconsider this opinion. But at this point, I am not comfortable to do so.

Figure 4-3: Waimakariri District Urban Dwelling Demand (+Margin) and Feasible Supply

Waimakariri District Dwelling Demand	Demand +Margin	Feasible Supply	Sufficiency
Short-Medium	6,260	6,480	220
Long	14,727	15,348	621

[7] https://www.waimakariri.govt.nz/__data/assets/pdf_file/0021/151455/Waimakariri-Residential-Capacity-and-Demand-Model-December-2023.pdf, page 32

Paras 395 and 396	**Making direct reference to Sarah Gale [273.6], please set out the scope for this change to activity status.**

The full wording of the submission from Sarah Gale is set out below:

"20m is a blanket provision that does not consider the residential medium density zone and constraints of urban development, or the conflict between freshwater bodies and urban drains. It is a broad brush approach that does not provide certainty for urban development and creates additional cost associated with growth when additional consent layers create costs and time constraints. The provisions are unrealistic and will make all urban subdivision with esplanade provision a non-complying activity due to the generic application of the rule."

It relates to the provisions as a whole (i.e. both the extent of the 20m distance and the non-complying activity status).

Accordingly, it is within scope to amend either or both the 20m esplanade width and the change the activity status to RDIS.

Para 406	**Your recommendation is to accept the wording requested by Waka Kotahi.** ***"Limited Access Roads must be considered to ensure the properties have frontage to a legal road"*** **However, do you consider their wording is clear as to its intent, i.e. what does *"must be considered"* mean in practical terms?**

Must be considered is indicating that this is a requirement. An advice note does not have the force of a rule which is a trigger for resource consent. The advice note would be better to replicate the wording of the advice under the heading 'Separate approval from the relevant road controlling authority' within the TRANS chapter, which provides a fuller explanation as set out below:

SUB-AN3	~~Limited Access Roads must be considered to ensure the properties have frontage to legal road.~~ Where the state highway has been declared a Limited Access

	Road, approval from *Waka Kotahi* is required for new accesses or changes to existing accesses. The objective of this control is to protect the operation of the state highway from uncontrolled property access that can affect the safety, efficiency, functionality and level of service of the state highway. Limited access roads are most commonly in areas with a heightened development pressure. *Waka Kotahi* should be consulted initially with respect to development along limited access roads.

I consider this amendment is within the scope of Waka Kotahi [275.36] as the original submission states that they seek amendments to the proposed Waimakariri District Plan as detailed in the submission, including further, alternative or consequential relief as may be necessary to fully achieve the relief sought. I consider the above to be alternative relief necessary to fully achieve the relief sought by Waka Kotahi [275.36].

Para 413	**The Panel has read this submission. We are not sure that this submission point is on reverse sensitivity, given they have another submission point on MCD10 reverse sensitivity. We interpret their submission point to be rather on the design, so that for instance, the productive part of a rural lot is maintained for productive activities. If we are correct, would that change your assessment, and if so, is this rather a point that should have been assessed in the rural subdivision s42A? If so, the reporting officer for the rural subdivision s42A report is requested to address this submission point.**

I have discussed this submission point with Mr Buckley and we agree with your interpretation and that it should have been assessed in the rural subdivision s42A report. I retract my assessment and Mr Buckley will respond to this question and provide his assessment and recommendations within his written responses. This relates to submissions NZPork [169.19] and David Cowley [FS41].

Para 460	**Please provide evidence that the workability of the new rule/matter of discretion has been reviewed and deemed "workable" by a suitably qualified Council officer involved in Plan implementation.**

Mrs Wendy Harris, Manager – Plan Implementation Unit is providing a response to this question in her own statement. I am aware that Mrs Harris will provide recommended changes. We have discussed these, and I am happy to incorporate the recommended changes within my right of reply.

Para 465	**Please explain how the right hand column "activity status when compliance not achieved" would come into play, if there are no standards referenced in the Rule itself.**

Thank you for drawing my attention to this matter. The wording you reference could not come into play without the Rule itself referencing standards. I recommend this is replaced with a non-complying activity status.

I have discussed the activity status with Mrs Harris who agrees that non-complying is appropriate. I have also discussed this with Ms Claire McKeever who is the listed contact for Eliot Sinclair [233.1]. Her view was that it would be very rare for a unit title/cross lease update to be sought without services and meeting the requirements that have been specified and therefore quite unlikely that any such subdivision would be a non-complying activity.

I consider there is scope within Eliot Sinclair [233.1] for this change as within the original submission they state that they would be happy with any variation of the wording if they had the opportunity to review the wording.

SUB-R3a	**Subdivision to Update Cross Leases, Company Leases Plans, and Unit Titles Plans**	
All Zones	**Activity status: CON** Where: 1. Every title has legal access to a road, and that access is not obtained by crossing a railway line; 2. Every title or leased area is supplied with a potable water supply; 3. Every title or leased area is supplied with a connection to a reticulated wastewater network, where the site is located in a township with a	**Activity status when compliance not achieved: ~~as set out in the relevant subdivision standards~~ nc**

	reticulated wastewater network. **Matters of control are restricted to:** SUB-MCD1 - Allotment area and dimensions SUB-MCD3 - Property access SUB-MCD5 - Natural Hazards SUB-MCD6 - Infrastructure SUB-MCD11 - Effects on or from the National Grid **Notification** An application for a controlled activity under this rule is precluded from being publicly or limited notified.	