

SUBMISSION

TO THE WAIMAKARIRI DISTRICT COUNCIL

SUBMISSION ON: VARIATION 1 (HOUSING INTENSIFICATION) TO PROPOSED DISTRICT PLAN

FULL NAME: WAIMAKARIRI DISTRICT COUNCIL

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COUNCIL DOES WISH TO BE HEARD.

COUNCIL DOES NOT WISH TO MAKE A JOINT CASE WITH ANY PARTY PRESENTING A SIMILAR SUBMISSION.

SIGNED (ON BEHALF OF COUNCIL):



DATE: 9 SEPTEMBER 2022

Waimakariri District Council Submission – Variation 1 to Proposed District Plan

Introduction

1. The Waimakariri District Council (**Council**) makes this submission, in respect of Variation 1 to the Proposed District Plan (Variation 1), under Clause 6(2) of Schedule 1 to the Resource Management Act 1991 (**RMA**).
2. Variation 1 was a mandatory direction from Central Government over which Council had no control of timing. Council records that it is currently underway with a proposed district plan that it considers responded to the housing capacity challenges that the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act sought to address, while balancing appropriate change in the districts existing urban environments. The Council specifically notes that the legislation required Council to notify a plan change incorporating the required medium density residential standards, and to progress that variation through to a decision.
3. Because of the complexities of incorporating the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act provisions (the **Enabling Housing provisions**) and the medium density residential standards (the **MDRS**) into the notified Proposed District Plan, the Council proposes to submit on Variation 1, in order to signal and obtain scope for changes that might be needed to provisions. Clause 6(2) of Schedule 1 of the RMA allows Council to submit on the variation.
4. The Enabling Housing provisions has the intent of enabling housing choice across Aotearoa New Zealand's main urban areas. These standards in principle support the development of three homes up to three storeys on each site, without the need for resource consent. These provisions required all Tier 1 territorial authorities (district and unitary councils in Greater Auckland, Hamilton, Tauranga, Wellington and Greater Christchurch) to incorporate the MDRS into every urban residential zone in their district plan.
5. Plan changes were required to be made through an intensification planning instrument (IPI) and the intensification streamlined planning process (ISPP) and notified by August 2022.
6. In this submission Waimakariri District Council seeks to provide submissions on suggested pathways and issues involved with integrating this plan variation into the proposed district plan as required by law. While this submission is prepared to enable full integration between the proposed district plan and Variation 1, this should not be seen as approval of the overall legislation by the Council.

Summary

7. The points of this submission can be broadly themed into the following categories:
 - a. Drafting and linking matters – where drafting can be amended to improve the consistency and linkages and usability without changing the intent of anything that already has immediate legal effect.
 - b. Consequential amendments – where minor changes to the content of the variation which are outside the scope of the RMA's Clause 16 minor amendments and s80H 'identifying mark-up'.

- c. Other amendments - where planning concepts and issues of implementation have emerged following notification and which may require changes.
8. It is noted that s77M of the RMA requires that when applying for, and considering, a consent application, that MDRS provisions override the operative or proposed plan provisions if there is an inconsistency between them (except for qualifying matters and new residential zones). The consent authority must apply these provisions when processing a consent under s104(1)(b)(vi).

Relief sought

9. The Council seeks that Variation 1 be amended as set out in Table 1 below.

Table 1: Relief sought

Reference	Nature of relief (as per section 7 of this submission)	Reasoning	Changes requested
MRZ-R1 and MRZ-R2	Consequential amendment	<p>MRZ-R1, and MRZ-R2 are the main rules that operationalise the MDRS within Variation 1. As they are currently drafted, they are unclear in their scope – as MRZ-R1 applies district wide standards, and MRZ-R2 applies the residential standards (as amended by the MDRS).</p> <p>The activity status on MRZ-R1 requires amendment to ensure that the relevant district wide rule and activity status from elsewhere in the Proposed District Plan is invoked, rather than the rules in the MRZ section.</p>	<p>Amend MRZ-R1 as follows:</p> <p>Where:</p> <p>1. the activity complies with all <u>applicable medium density residential and district-wide built form standards</u>.</p> <p>Activity status when compliance not achieved:</p> <p><u>for medium density residential provisions, as set out in the relevant built form standard;</u></p> <p><u>for district-wide provisions, as set out in the relevant district-wide rule and/or standard;</u></p>
Qualifying matters - rules and standards	Consequential amendment	<p>The linkage between qualifying matters and the rules that make them operational need to be improved to ensure they are fully effective.</p> <p>Some existing or new qualifying matters may need to be linked to rules and standards as decisions are made.</p>	<p>Link qualifying matters where listed directly to maps (noting that existing qualifying area maps may need changes in how they display).</p> <p>Consequential linkages or amendments required to give effect to relief sought.</p>
Qualifying matters – rules and standards	Consequential amendment	Qualifying matters may require both subdivision and land-use rules to make them operational, and not all qualifying matters have linkages or references to both types of rule.	Consequential linkages or amendments required to give effect to relief sought.

Reference	Nature of relief (as per section 7 of this submission)	Reasoning	Changes requested
Qualifying matters - Table RSL-1	Consequential amendment	<p>Table RSL-1 lists the currently proposed qualifying matters – places and areas where the MDRS may not apply or be restricted in its application - that apply across the District.</p> <p>However it could be improved by outlining the exact nature of the qualifying matter in spatial extent and reasoning so that.</p>	<p>Amend Table RSL-1 to directly explain the area, nature and extent of qualifying matters.</p> <p>Link Table RSL-1 to the relevant qualifying layers on map, noting that this may require improvements to the map display (but not content).</p> <p>Consequential linkages or amendments required to give effect to relief sought.</p>
Medium Density Residential Zone – treatment of non-living accommodation	Other amendment	<p>It is not clear how to treat garages and other <i>non-living accommodation</i> parts of a building under the MDRS. The Proposed District Plan definitions for ‘residential activity’ are clearly linked to the living accommodation only, which can be interpreted to exempt a garage from consideration under the MDRS, but this may need to be clarified.</p>	<p>Clarify that the non-living parts of a building are not part of assessment under the relevant MDRS built form standards. This includes attached garages, roof cavity/facade, and foundations.</p>
MRZ-BFS4 MRZ-R18	Consequential amendment	<p>The notified version of the Proposed District Plan set a discretionary status for activities that do not conform to the built form standards or rules. However, the Enabling Housing provisions require a restricted discretionary status for non-compliance. This was changed by Variation 1 in all relevant activity standards except for MRZ-R18 and MRZ-BFS4.</p> <p>Note: the restricted discretionary status is in force by way of s77M regardless.</p>	<p>Amend activity status for non-compliance to restricted discretionary “RDIS” for MRZ-BFS4 and MRZ-R18.</p>

Reference	Nature of relief (as per section 7 of this submission)	Reasoning	Changes requested
RES - Matters of discretion	Other amendment	The language and wording in the matters of discretion could be refined to make the wording of concepts more objective and rational where subjective terminology is used.	Amend to make the wording of concepts to be more objective and rational where subjective terminology is used, for example, where the phrase “visual perception of cramped living conditions” is used in RES-MD12.
Differences between proposed district plan medium density residential zones and MDRS standards	Consequential	The proposed plan introduced a medium density residential zone in the centre of Rangiora which was (arguably) more permissive of development than the MDRS and which provided substantial additional development capacity consistent with national directives.	Any changes required in the event where the panel determines that variation 1 is not the most effective way of achieving the purpose of the Enabling Housing Amendment Act and MDRS.