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 Response to written questions on
Subdivision – Urban & Rural on behalf of Waimakariri District Council

Date: 12 April 2024

INTRODUCTION:

1 My full name is Wendy Harris. I am employed as the Planning Manager of the Plan Implementation Unit for Waimakariri District Council. I have over 30 years experience as a Planner including over 17 years working in and leading Council teams which process resource consent applications. I am a full member of the NZ Planning Institute and I was the peer reviewer for the section 42A report on Subdivision – Urban.

2 The purpose of this document is to respond to a particular question published from the Hearings Panel in relation to the s42A report for Urban Subdivision. I also offer comment on some of the other questions published from the Hearings Panel particularly in relation to Boundary Adjustments, based on my experience processing subdivision applications.

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

4 The following is a key of the proposed amendments:

5 Appearance Explanation

Appearance	**Explanation**
Black text	Text as notified
Black text with <u>underlining</u> or ~~strikethrough~~	Amendments recommended by this Report

6 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 460 of the S42A report for Subdivision - Urban	**Please provide evidence that the workability of the new rule/matter of discretion has been reviewed and deemed "workable" by a suitabily qualified Council officer involved in Plan implementation.**

I have reviewed proposed Rule SUB-R3a. The rule would apply to updates to cross lease and unit title plans. These type of applications are generally for minor updates such as the addition of a garage or a deck. I consider the proposed rule would generally be workable for these type of applications with some minor amendments. I recommend the following amendments:

SUB-R3a	Subdivision to Update Cross Leases, Company Leases Plans, and Unit Titles Plans	
All Zones	**Activity status: CON** Where: 1. Every title <u>or leased area</u> 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 <u>available</u>. ~~the site is located in a township with a 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	**Activity status when compliance not achieved: as set out in the relevant subdivision standards nc**

Paragraph or Plan reference	Question
Notification An application for a controlled activity under this rule is precluded from being publicly or limited notified.	
Para 465 of the S42A report for Subdivision - Urban	**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.**
I have considered this issue and discussed it with Ms McClung. We agree that the wording as above creates difficulties with how the activity status would come into play. We have discussed alternatives and agree that it is necessary for the format of SUB-R3a to follow the format of the other rules in the Plan and include reference to the applicable Subdivision Standards. The "activity status when compliance not achieved" would then come into play when any of the Subdivision Standards are not complied with. Ms McClung has included suggested alternative wording in her response to written questions, which I agree would be workable.	
Para 203 of the S42A report for Subdivision - Rural	**You say SUB-R1 provides for boundary adjustments when they meet the minimum lot size for the zone. Is that correct? SUB-S1 does not seem to apply to SUB-R1.** **And why do the properties need to comply with minimum lot size to use this mechanism? Boundary adjustments are often used to address a range of issues/constraints around the practical use of land rather than facilitating new development.**
The National Planning Standard definition of Boundary Adjustment *"means a subdivision that alters the existing boundaries between adjoining allotments, without altering the number of allotments."* This means that boundary adjustments can vary widely in scale from minor corrections to boundaries through to farmers selling large blocks of land to a neighbour. These two examples would generally be of little concern. However, if SUB-R1 doesn't include reference to SUB-S1, then the boundary adjustment	

Paragraph or Plan reference	Question
rule could also be used to create under-size lots in every zone. For example, in the General Rural Zone a boundary adjustment could be undertaken between two complying 20 hectares lots to create one lot of say, 4 hectares and a balance lot of 16 hectares. Providing SUB-S2 to SUB-S18 are met, a subdivision such as this would be a Controlled Activity under SUB-R1. However, SUB-R10 indicates that in the General Rural Zone, the creation of lots less than 20 hectares is a non-complying activity. The current wording of SUB-R1 and SUB-R10 creates uncertainty about the activity status of this type of subdivision. A Council I previously worked for had no minimum lot size for boundary adjustments. This resulted in a loophole where a large rural landowner applied to subdivide their farm into complying 20ha lots, then applied for a boundary adjustment to reorganise the new titles into lots of approximately 2,500m^2 and one large balance lot. They then applied to re-subdivide the balance lot into complying 20ha lots, then sought to adjust those lot boundaries and so on. This is why I support boundary adjustments having to comply with minimum lot sizes. If SUB-R1 is amended to refer to SUB-S1, then when boundary adjustments are applied for to address other issues (e.g. to correct the alignment of boundaries or to deal with constraints around the practical use of land) and this results in under-size lots, the particular circumstances of the proposal could be taken into consideration during the assessment of the application.	
Para 283 of the s42A report for Subdivision - Urban	**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?**
My comments above in relation to rural boundary adjustments also apply to boundary adjustments in urban areas. If SUB-R1 doesn't include reference to the minimum lot sizes and dimensions in SUB-S1, this would allow lots of any size and dimension to be created via boundary adjustment.	