



**ADDERLEY
HEAD**

ENVIRONMENTAL LAW SPECIALISTS

FURTHER SUBMISSION ON THE PROPOSED WAIMAKARIRI DISTRICT PLAN

Clause 6, First Schedule of the Resource Management Act 1991

To: The Waimakariri District Council
Private Bag 1005
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Submitter: PA Dallimore on behalf of Oxford Equity Ltd

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Proposal: The Proposed Waimakariri District Plan

Original submissions:

1. Aurecon New Zealand Limited-Mark Allan, Sub No. 408.14;
2. Concept Services-Jane West, Sub No: 230.4;
3. Chapman Tripp-Jo Appleyard/Lucy Forrester, Sub No: 326.210;
4. Heritage New Zealand Pouhere Taonga-Arlene Baird, Sub No: 178.16;
6. Resource Management Group Limited-Melanie Foote, Sub No: 249.109;
7. Chapman Tripp-Jo Appleyard/Lucy Forrester, Sub No: 326.218;
and
8. Aurecon New Zealand Limited-Mark Allan, Sub No. 408.15.

FURTHER SUBMISSION ON PROPOSED WAIMAKARIRI DISTRICT PLAN

The submitter

- 1 PA Dallimore on behalf of Oxford Equity Ltd (**Submitter**).
- 2 The submitter is a person with an interest greater than the general public, on the following ground:
 - (a) The Waimakariri District Council Proposed Plan, proposes the heritage setting of the Submitter's 17 Main Street, Oxford, HH050-HHSCHED2 (**Redwoods Property**) be extended from only the building known as the Redwoods and buffer of approximately two metres, to the entire Redwoods Property.
- 3 The original submissions this further submission details below, directly relate to the submitter's Redwood Property and the development of the property.

Proposal to which this Further Submission relates

- 4 This is a further submission on the Waimakariri District Council Proposed Plan (**PDP**).

Original Submissions to which this Further Submission relates

- 5 This is a further submission on the original submissions, as follows:
 - (a) Supports the Aurecon New Zealand Limited-Mark Allan, **Sub No: 408.14-(HH052)**;
 - (b) Supports an amendment, the Concept Services-Jane West, **Sub No: 230.4(HH-O1)**;
 - (c) Opposes the Chapman Tripp-Jo Appleyard/Lucy Forrester, **Sub No:326.210 (HH-P3)**;
 - (d) Opposes the Heritage New Zealand Pouhere Taonga-Arlene Baird, **Sub No: 178.16 (HH-P5)**;
 - (e) Opposes the the Chapman Tripp-Jo Appleyard/Lucy Forrester, **Sub No: 326.218 (HH-R3)**; and
 - (f) Supports the Aurecon New Zealand Limited-Mark Allan, **Sub No. 408.15-(SUB-R7)**.

- 6 We discuss in detail below each of the original submissions identified.

Submission No: 408.14- HH052-HHSCHED2

- 7 The further submission supports the original Submission No 408.14 (**Sub:408.14**) that the extent of the heritage setting for HH052-HHSCHED2 'Belgrove Farmhouse' is arbitrary, not justified by an appropriate section 32 Resource Management Act 1991 (**RMA**) analysis and is open to interpretation as to the criteria and the relevance of the setting.

Reasons for Further Submission

- 8 The further submission supports the original submission, because the same arbitrary extent of the heritage listing for the Belgrove Farmhouse in the PDP, has similarly been applied to the extent of the heritage listing of the Redwoods Property HH050-HHSCHED2 in the PDP. The New Zealand Heritage Register (**NZHR**) currently lists the Redwoods Property's protection as being the building itself and buffer of approximately two metres around the building. The Waimakariri District Council's (**Council**) Operative District Plan (**ODP**) replicates the NZHR's protection, by scheduling the Redwood building and buffer of approximately two metres around the building as heritage site number HO44.
- 9 The proposed extension of the Redwoods Building to include the entirety of the Redwoods Property is an arbitrary extension, without RMA justification beyond what is currently provided for in the ODP and NZHR listing.

Decision sought

- 10 That part of Sub: 408.14 that seeks the arbitrary extent of the heritage setting for the Belgrove Farmhouse be removed to allow for a site specific heritage assessment be undertaken. Similarly, the arbitrary extension of the heritage setting for the Redwoods property being extended to the entirety of the property, be amended from what has been notified and the heritage listing of the Redwoods Property to remain as stated in the ODP as only the Redwoods building and buffer zone of two metres around the building.
- 11 Any other relief consequential relief available as a result of this further submission.

Submission No: 230.4

- 12 The further submission supports the original Submission No 230.4 (**Sub: 230.4**) that Objective HH-O1 be amended. The further submission also seeks amendment and proposes that HH-O1's objective of protecting and maintaining recognised heritage be balanced within an appropriate context and otherwise significant adverse effects managed. The Submitter proposes the following amendment to HH-O1 to achieve the balance of an appropriate context:

Objectives	
HH-O1	<p>Contribution to the District</p> <p>Historic heritage and its overall contribution to the identity of the District is recognised, <u>and where appropriate</u> protected and maintained and <u>otherwise manages significant adverse effects on historic heritage</u>.</p>

Reasons for Further Submission

- 13 The current drafting of the PDP's HH-O1 Objective, seeks historic heritage be recognised, protected and maintained, without evaluating and or considering whether or not recognising and maintaining historic heritage is appropriate within the context the historic heritage setting may exist/operate. The addition of the phrasing sought in this further submission above allows for discretion to be exercised where appropriate, in order to balance historic heritage against competing considerations views and alternative uses of a historic heritage setting. As well the amendments sought seek to manage significant adverse effects, allowing some latitude in terms of the scale of allowable effects on heritage values.

Decision sought

- 14 That HH-O1 be amended to state, "Historic heritage and its overall contribution to the identity of the District is recognised, and where appropriate protected and maintained otherwise manage significant adverse effects on historic heritage."
- 15 Any other relief consequential relief available as a result of this further submission.

Submission No: 326.210

- 16 The further submission opposes the original Submission No 326.210 (**Sub: 210**) that Policy HH-P3 be retained as notified in the PDP. The further submission proposes that HH-P3 be amended as follows:

HH-P3	<p>Heritage settings</p> <p>Recognise and <u>where appropriate</u> maintain the relationship of historic heritage and any associated heritage setting for historic heritage listed in <u>HH-SCHED2</u> within the context of <u>considering</u> the benefits and needs for subdivision, use and development within the locality of the listing</p>
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Reasons for further submission

- 17 The current drafting of the PDP's HH-P3 Policy, seeks historic heritage be recognised and maintained, without evaluating and or considering whether or not recognising and maintaining historic heritage is appropriate within the context the historic heritage setting may exist/operate. The addition of the phrasing sought in this further submission above allows for discretion to be exercised where appropriate, in order to balance historic heritage against competing considerations views and alternative uses of a historic heritage setting.

Decision sought

- 18 That HH-P3 be amended to state, "Recognise and where appropriate maintain the relationship of historic heritage and any associated heritage setting for historic heritage listed in HH-SCHED2 within the context of considering the benefits and needs for subdivision, use and development within the locality of the listing".
- 19 Any other relief consequential relief available as a result of this further submission.

Submission No: 178.16

- 20 The further submission opposes the original Submission 178.16 (**Sub: 178.16**) that Objective HH-P5 be retained as notified. The further submission proposes that HH-P5 be amended as follows:

HH-P5	<p><u>Significant</u> Adverse effects</p> <p>Manage any <u>significant adverse</u> effects of subdivision, use and development on historic heritage and heritage settings, listed in <u>HH-SCHED2</u>, in a way that:</p> <ol style="list-style-type: none"> 1. provides for ongoing use and re-use <u>via subdivision and development</u> while seeking to provide to for and manage significant adverse effects on identified heritage values; 2. enables heritage investigative and temporary works and maintenance or repair to meet Building Code requirements, that is sensitive to identified heritage values; 3. protects where possible identified heritage values from inappropriate subdivision, use, and development, including any alteration, addition and the erection of a structure, building or addition to a building within a site or heritage setting; and 4. Conserves, where possible and where possible enhances, the authenticity and integrity of historic heritage and any heritage setting, particularly for 'Highly Significant' historic heritage.
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Reasons for further submission

- 21 The current drafting of the PDP'S HH-P5 Policy, describes 'effects' generally in terms of the management of subdivision, use and development on historic heritage and heritage settings. The word 'effects' within the current main body of HH-P5 results in consideration of any effect regardless of its significance or scale ' in the context of subdivision, use and development'. HH-P5 in order to provide greater clarity in interpretation, requires clarification of what 'effects' will be managed in the context of subdivision, use and development.
- 22 The submitter proposes 'effects' be defined as 'significant adverse effects', to provide the clarity required when interpreting what effects are to be managed in the context of subdivision, use and development.
- 23 Furthermore, to provide greater clarity in interpreting HH-P5, point 1, which needs to be linked to providing ongoing use and re-use, via the context of subdivision and development.

Decision sought

- 24 That HH-P5 heading be amended to state, "Significant Adverse Effects". The first paragraph to be amended to state, "Manage the significant adverse effects of subdivision, use and development on historic heritage and heritage settings, listed in HH-SCHED2, in a way that:" HH-P5-point 1 be amended to state, "provides for ongoing use and re-use via subdivision and development that is sensitive to identified heritage values".

25 Any other relief consequential relief available as a result of this further submission.

Submission No: 326.218

26 The further submission opposes the support of the original Submission No: 62.43
(**Sub: 326.218**) that Objective HH-R3 be retained as notified. The further
submission proposes that HH-R3 be amended as follows:

HH-R3	Construction of a structure, building or addition to a building within any historic heritage setting listed in HH-SCHED2	
Heritage Building or Item Overlay	Activity status: PER	Activity status when compliance not achieved: RDIS
Heritage Area Overlay	<p>Where:</p> <ol style="list-style-type: none"> 1. any structure or building or addition to a building is less than 10m² in GFA and 2m in height; 2. The activity is necessary for the maintenance, repair and replacement of an existing car park, accessway, driveway or paved area. 	<p>Matters of discretion are restricted to:</p> <ul style="list-style-type: none"> • HH-MD1 - Adverse effects on heritage settings • HH-MD3 - Consultation • HH-MD4 - Re-use and relocation • HH-MD5 - Mitigation • HH-MD6- Whether the retention of the heritage features or form of the listed structure, place, or object causes significant additional costs, or reduction in its range of likely uses <p>Notification</p> <p>An application for a restricted discretionary activity under this rule is precluded from being publicly notified, but may be limited notified only to HNZPT, in respect of sites on the New Zealand Heritage List Rārangī Kōrero, where the consent authority considers this is required, absent its written approval.</p>

Reasons for further submission

- 27 The ODP includes as a restricted discretionary consideration at Heritage Rules 28.2(ix): "*Whether the retention of the heritage features or form of the listed structure, place, or object causes significant additional costs, or reduction in its range of likely uses*", this restricted discretionary consideration is not included in the PDP. The consideration of significant cost to land developers being precluded from development of land, because of the significant cost of the retention of a heritage item, is an important consideration that should be maintained when considering a resource consent applications related to heritage listings.
- 28 The reduction of the likely uses of a parcel of land for development, if land developers are precluded from the developing of land for residential housing, utilising existing land and infrastructure in areas where there is a need for more residential housing. As distinct from Greenfield development to satisfy the demand for residential housing.
- 29 Retention of ODP Heritage Rule 28.2(ix) in the PDP achieves the consideration of cost and reduction of use when considering construction of building on heritage listed sites.

Decision sought

- 30 That HH-R3 be amended to include the further matter of restricted discretion, "HH-MD6- Whether the retention of the heritage features or form of the listed structure, place, or object causes significant additional costs, or reduction in its range of likely uses".
- 31 Any other relief consequential relief available as a result of this further submission.

Submission No. 408.15

- 32 The further submission supports the opposition of the original Submission No: 408.15 (**Sub: 408.15**) that Objective SUB-R7 be amended. The further submission proposes that HH-R3 be amended as follows:

SUB-R7	Subdivision of a site containing a historic heritage item or heritage setting, or notable tree	
Heritage Building or Item Overlay	Activity status: RDIS	Activity status when compliance not achieved: as set out in the relevant subdivision standards
Heritage Area	Where:	

Overlay	1. SUB-S1 to SUB-S18 are met.
Notable Trees Overlay	<p>Matters of discretion are restricted to:</p> <ul style="list-style-type: none"> • Matters of control/discretion listed in SUB-R2 • SUB-MCD13 - Historic heritage and notable trees

SUB-MCD13	<p>Historic heritage, culture and notable trees</p> <ol style="list-style-type: none"> 1. Any effect on historic heritage, its heritage values and on any associated heritage setting. 2. The extent that HNZPT has been consulted and the outcome of that consultation. 3. The extent that the site has cultural or spiritual significance to mana whenua and the outcome of any consultation undertaken with Te Ngāi Tūāhuriri Rūnanga. 4. Opportunities to incorporate representation of the association of Te Ngāi Tūāhuriri Rūnanga into the design of residential and commercial subdivision. 5. Opportunities to enhance the physical condition of historic heritage and its heritage values. 6. Whether the retention of the heritage features or form of the listed structure, place or object causes significant additional costs, or reduction in its range of likely uses. 7. Any mitigation measures proposed to be implemented to protect historic heritage and its heritage values. 8. The extent to which the subdivision layout and design provides for the protection of any notable tree. 9. Any effect on a notable tree as a result of the subdivision or identified building platform or platforms, and whether alternative methods or subdivision design are available to retain or protect the tree.
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Reasons for further submission

- 33 The subdivision of land involving a site where a historic heritage item or heritage setting is listed, is a restricted discretionary activity in the ODP. However, in the ODP the matters of discretion include Heritage Rules 28.2(ix): "*Whether the retention of the heritage features or form of the listed structure, place, or object causes significant additional costs, or reduction in its range of likely uses*", this restricted discretionary consideration is not included in the PDP. The consideration of cost to land developers being precluded from development of land, because of the significant cost of the retention of a heritage item, is an important consideration that should be maintained when considering a resource consent applications related to heritage listings.
- 34 The reduction of the likely uses of a parcel of land for development, if land developers are precluded from the developing of land for residential housing, utilising existing land and infrastructure in areas where there is a need for more

residential housing. As distinct from Greenfield development to satisfy the demand for residential housing.

- 35 Retention of ODP Heritage Rule 28.2(ix) in the PDP achieves the consideration of cost and reduction of use when considering subdivision of heritage listed sites.

Decision sought

- 36 That the matters of discretion in SUB-MCD13 HH-R3 be amended to include a further matter of restricted discretion of, "Whether the retention of the heritage features or form of the listed structure, place, or object causes significant additional costs, or reduction in its range of likely uses".
- 37 Any other relief consequential relief available as a result of this further submission.

Conclusion

- 38 The submitter does to be heard in support of these further submissions.
- 39 If others make a similar submission, the submitter will consider presenting a joint case with them at the hearing.

Dated 21 November of 2022



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