



Hans van der Wal  
Barrister  
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Walker Street Chambers  
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Christchurch  
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25 November 2021

Waimakariri District Council  
215 High Street  
Rangiora 7400

By email: developmentplanning@wmk.govt.nz

Dear Madam/Sir

**Submission by R [REDACTED] and F [REDACTED] Buhler on the Proposed Waimakariri District Plan**

1. I act for Robert Adolf Buhler and Fiona Mary Buhler in relation to their submission on the Proposed Waimakariri District Plan.
2. Please find **enclosed** by way of lodgement:
  - a. A submission form completed and signed by Robert Adolf Buhler and Fiona Mary Buhler in relation to the Proposed Waimakariri District Plan;
  - b. A further document providing the details of the submission; and
  - c. A document to which the submission refers.
3. Please confirm receipt of this submission.
4. The Buhlers will be amenable to pre-hearing meetings and discussions with the s42A officers and other submitters if that assists.

Yours faithfully

Hans van der Wal  
**Barrister**

## DISTRICT PLAN REVIEW

# Proposed Waimakariri District Plan - Submission

Clause 6 of Schedule 1, Resource Management Act 1991

### Submitter details

(Our preferred methods of corresponding with you are by **email** and **phone**).

Full name: R [REDACTED] Buhler, F [REDACTED] Buhler

Email address: [buhler.south@xtra.co.nz](mailto:buhler.south@xtra.co.nz)

Please select one of the two options below:

- ☒ I **could not** gain an advantage in trade competition through this submission (go to Submission details, you do not need to complete the rest of this section)
- ☐ I **could** gain an advantage in trade competition through this submission (please complete the rest of this section before continuing to Submission details)

Please select one of the two options below:

- ☒ I **am** directly affected by an effect of the subject matter of the submission that:
- A) Adversely affects the environment; and
  - B) Does not relate to trade competition or the effect of trade competition.
- ☐ I **am not** directly affected by an effect of the subject matter of the submission that:
- A) Adversely affects the environment; and
  - B) Does not relate to trade competition or the effect of trade competition.



## Submission details

The specific provisions of the proposal that my submission relates to are as follows: *(please give details)*

The key issue of the submission is the failure of the proposed plan to manage reverse sensitivity effects on our intensive pig farming operation at 680 South Eyre Road, or to provide alternative zoning of that land to enable an alternative economically viable land use on that land that can replace that operation if the appropriate rules controlling those reverse sensitivity effects are not inserted.

The provisions of the proposed plan that this submission concerns are rules and planning maps identifying the zoning of the General Rural Zone and Rural Lifestyle Zone land at and adjacent to 680 South Eyre Road and controlling the land uses that can occur on that property and the surrounding land and the objectives and policies to which that zoning and those rules give effect. This includes the provisions specified in the enclosed supplementary documents.

My submission is that: *(state in summary the Proposed Plan chapter subject and provision of your submission. Clearly indicate whether you support or oppose the specific provisions or wish to have amendments made, giving reasons) (please include additional pages as necessary)*

The proposed district plan and in particular the provisions identified above and in the enclosed supplementary documents fail to give effect to the purposes of the Resource Management Act 1991 as given effect by the higher order policy documents, including the Canterbury Regional Policy Statement. They do this by failing to manage appropriately the reverse sensitivity effects of sensitive land use intensification on the viability of intensive farming activities with significant odour effects, such as intensive pig farming, and by failing to provide for an alternative land use that could compensate for the economic loss associated with the cessation of the intensive pig farming activity, that is inevitable with the proposed rezoning and lack of protective measures. As such the fail to enable the owners of in particular 680 South Eyre Road to provide for their social, economic and cultural health and wellbeing and fail to avoid, remedy or mitigate adequately the adverse effects of the intensification enabled by the zoning and lack of measures protecting existing established rural activities. See enclosed supplementary documents for more details.

I/we have included: Thirteen additional pages

I/we seek the following decision from the Waimakariri District Council: *(give precise details, use additional pages if required)*

One of the two following alternative reliefs:

1. The rezoning of 680 South Eyre Road to Rural Lifestyle; or
2. The amendment of the objectives, policies and rules that apply to the General Rural Zone so that they expressly recognise and provide for the need to protect existing lawfully established intensive farming activities from the reverse sensitivity effects of the intensification or introduction of any activities sensitive to animal effluent odour discharges, such as residential and other activities incompatible with such discharges. See the enclosed supplementary documents for more details.

Note: Relief 2 will be required until such time as the commencement of the more intensive residential and associated activities are able to commence under any rezoning done to give effect to Relief 1.

**BEFORE THE WAIMAKARIRI DISTRICT COUNCIL**

**In the matter** of Clause 6 of Schedule 1 of the Resource Management Act 1991

**And**

**In the matter** A submission or a proposed district plan:

**ROBERT ADOLF BUHLER, FIONA MARY BUHLER**

Submitter

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**SUBMISSION ON THE PROPOSED WAIMAKARIRI DISTRICT PLAN  
FURTHER DETAIL**

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Barrister  
[Hans@hansvanderwal.co.nz](mailto:Hans@hansvanderwal.co.nz)  
40 Walker Street Chambers  
DX WX11109  
Christchurch

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## **INTRODUCTION**

- 1 This is the supplementary documentation lodged as part of and referred to in the submission by Robert Adolf Buhler and Fiona Mary Buhler (the submitters) on the Proposed Waimakariri District plan using the submission form provided on the Waimakariri District Council Website.
- 2 This document sets out the detail of the:
  - 2.1 Specific provisions to which the submission relates;
  - 2.2 The content of the submission; and
  - 2.3 The relief sought,
    - as referred to at p2 of that form.

## **SUBMISSION DETAILS**

### **Specific Provisions to which the Submission Relates:**

- 3 The specific provisions to which the Submission Relates include:
  - 3.1 The planning maps that zone 680 & 688 South Eyre Road General Rural and the land to the east and north of it Rural Lifestyle;
  - 3.2 Objective RLZ1 and policies RLZ-P1 & P2;
  - 3.3 In particular RLZBFs5 and Rules RLZ-R1 to RLZ-R10 and RLZ-R17;
  - 3.4 Objective GRUZ-01 and policies GRUZ P1&P2;
  - 3.5 In particular and Rules GRUZ-R3 to GRUZ-R10 and GRUZ-R15 and GRRUZ-BFS5;
  - 3.6 And any other provisions that affect the lawfulness of residential, other sensitive (to odour) activities and residential activities on Rural Lifestyle and Rural General zoned land, as well as any

provisions that need to be amended to give effect to the relief sought below.

#### **Content of Submission**

- 4 The further details of the submitters' key submission are that:
  - 4.1 The owners of 680 & 688 South Eyre Road currently operate a lawfully established piggery at that property. They hold discharge permit RC142884 issued by the Canterbury Regional Council expressly authorising the discharge of effluent from that piggery to land on that property.
  - 4.2 The discharges of odour to air from that activity are expressly allowed by Rule 7.65 of the operative Canterbury Air Regional Plan, as it was established well before 1 June 2002. There has been a piggery in place since the 1950s. The latest building additions were done in 1984.
  - 4.3 It is a condition of that permitted activity rule that the discharge of odour does not cause an offensive or objectionable effect beyond the boundary of the property of origin, when assessed in accordance with Schedule 2 (of that plan). The nature of the receiving environment is key determinant of what is considered objectionable or offensive.
  - 4.4 Introducing or intensifying activities into the receiving environment that are more sensitive to such odour discharges than the existing activities that can establish under the current zoning and rules, is likely to render the submitters unable to comply with the requirement not to cause "objectionable or offensive" odours. This is due to the prevailing wind conditions (see **enclosed** NIWA wind information).
  - 4.5 The rezoning of the land to the east and north as Rural Lifestyle authorises a higher density, enabling an intensification of sensitive

receptors within that receiving environment, such as residential activities. This will remove or place in serious jeopardy the submitters' ability to continue to operate their long-established commercial intensive pig farming activity.

- 4.6 It will fail to protect this long-established rural activity, which has no other zoning to accommodate it, from the adverse effects of reverse sensitivity, contrary to the requirements of the Canterbury Regional Policy Statement.
- 4.7 As such it will fail to enable the submitters to provide for their social, economic and cultural health and wellbeing. It will mean that the productive capacity of their farm and infrastructure are lost.
- 4.8 That fails to give effect to the purposes of the RMA and the Canterbury Regional Policy Statement. There is no recognition of or evaluation of the cost of this in the s32 evaluation prepared by the Council.
- 4.9 There are two means of ensuring that the relevant provisions of the proposed district plan do give effect to the applicable statutory and policy requirements:
  - 4.9.1 Rezone the land at 680 & 688 South Eyre Road to Rural Lifestyle so that the submitters can offset the economic loss resulting from the inability to continue with their commercial intensive pig farming activity that will be caused by the new zoning of the adjacent land, by enabling them to subdivide the land and sell it at the higher value that comes with that higher intensity zoning; or
  - 4.9.2 Amend the applicable objectives, policies and rules so that the existing activity is protected from the reverse sensitivity effects of the intensification enabled by the rezoning of the adjacent land to rural lifestyle.



## **Relief Sought**

5 The further details as to the decision sought by the submitters from the Waimakariri District Council are:

5.1 Relief Sought 1: Rezone as Rural Lifestyle 680 & 688 South Eyre Road, being PT Rural sec 6208 Lot 2 DP491521 & Pt Rural Sec 6208 BLK11 Chch SD, and retain all buffers and setbacks in the operative district plan for sensitive activities from the existing intensive pig farming operation until the rezoning becomes operative and can be relied on; or

5.2 Relief Sought 2:

5.2.1 Amend the objectives and policies identified above so as to include as a specific aim of both the Rural General and Rural Lifestyle Zones, the protection of lawfully established rural activities and their infrastructure from the reverse sensitivity effects of the intensification or introduction of odour sensitive activities such as residential activities into areas affected by the odour from these existing activities; and

5.2.2 Retain the current setbacks and buffers for residential and other sensitive activities as contained in the current operative Waimakariri District Plan, including Rule 31.19.1.1, 3 & 4 and the matters for consideration in Rule 32.1.3, including item m;

5.2.3 Such further, alternative or supplementary consequential relief as may be required to enable or give effect to either relief sought.

Dated 25 November 2021

A handwritten signature in blue ink, appearing to read 'J M van der Wal', positioned above a horizontal line.

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J M van der Wal

**Counsel for the Submitters**

## Submission at the Hearing

☒ I/we wish to speak in support of my/our submission

☐ I/we do not wish to speak in support of my/our submission

☒ If others make a similar further submission, I/we will consider presenting a joint case with them at the hearing

## Signature

Of submitters or person authorised to sign on behalf of submitter(s)

Signature 

Date 23<sup>rd</sup> NOV 2021

(If you are making your submission electronically, a signature is not required)

## Important Information

1. The Council must receive this submission before the closing date and time for submissions.
2. Please note that submissions are public. Your name and submission will be included in papers that are available to the media and public. Your submission will only be used for the purpose of the District Plan review process.
3. Only those submitters who indicate they wish to speak at the hearing will be emailed a copy of the planning officers report (please ensure you include an email address on this submission form).

If you are a person who could gain an advantage in trade competition through the submission, your right to make a submission may be limited by clause 6(4) of Part 1 of Schedule 1 of the Resource Management Act 1991.

Please note that your submission (or part of your submission) may be struck out if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- It is frivolous or vexatious
- It discloses no reasonable or relevant case
- It would be an abuse of the hearing process to allow the submission (or the part) to be taken further
- It contains offensive language
- It is supported only by material that purports to be independent expert evidence, but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

### Send your submission to:

Proposed District Plan Submission  
Waimakariri District Council  
Private Bag 1005, Rangiora 7440

### Email to:

developmentplanning@wmk.govt.nz

**Phone:** 0800 965 468 (0800WMKGOV)

**You can also deliver this submission form to one our service centres:**

**Rangiora Service Centre:** 215 High Street, Rangiora

**Kaiapoi Service Centre:** Ruataniwha Kaiapoi Civic Centre, 176 Williams Street, Kaiapoi

**Oxford Service Centre:** 34 Main Street, Oxford

**Submissions close 5pm, Friday 26 November 2021**

**Please refer to the Council website [waimakariri.govt.nz](http://waimakariri.govt.nz) for further updates**



# CLIMATIC ELEMENTS

## Wind

Wind direction over New Zealand in the zone directly above the earth's surface may be interpreted from a mean sea level pressure (MSLP) map, following the general principle that in the Southern Hemisphere air flows in a clockwise direction around a depression (or a 'low'), and in an anticlockwise direction around an anticyclone (or a 'high'). As such, MSLP maps can be used to indicate the general wind direction at the earth's surface. However, actual wind direction and speed at a particular locality is modified by the influence of friction and topography. Along the east coast of Canterbury the wind regime is complicated by a cool sea breeze from the easterly quarter, particularly in late-spring, summer and early-autumn. Sea breezes develop in Canterbury when synoptic-scale pressure gradients are weak (e.g. Figure 4), and are generated by air temperatures over land becoming higher than air temperatures over the sea. Figure 5 shows mean annual wind frequencies of surface wind based on hourly observations from selected Canterbury stations.

Mean wind speed data (average wind speeds are taken over the 10 minute period preceding each hour) are available for a number of sites in Canterbury, and these illustrate the several different wind regimes of the region (Table 1). Mean wind speeds are highest at coastal locations such as Le Bons Bay and Kaikoura, and lowest at the sheltered inland location of Hanmer Springs. There is notable variability in mean monthly wind speeds over the course of a year in Canterbury, where wind speeds are typically highest from around mid-spring (October) to mid-summer (January), and lowest from mid-autumn to mid-winter (April to August). This seasonality is observed across almost all of the Canterbury region, but is more pronounced at inland locations. Kaikoura is typically windier than most areas of

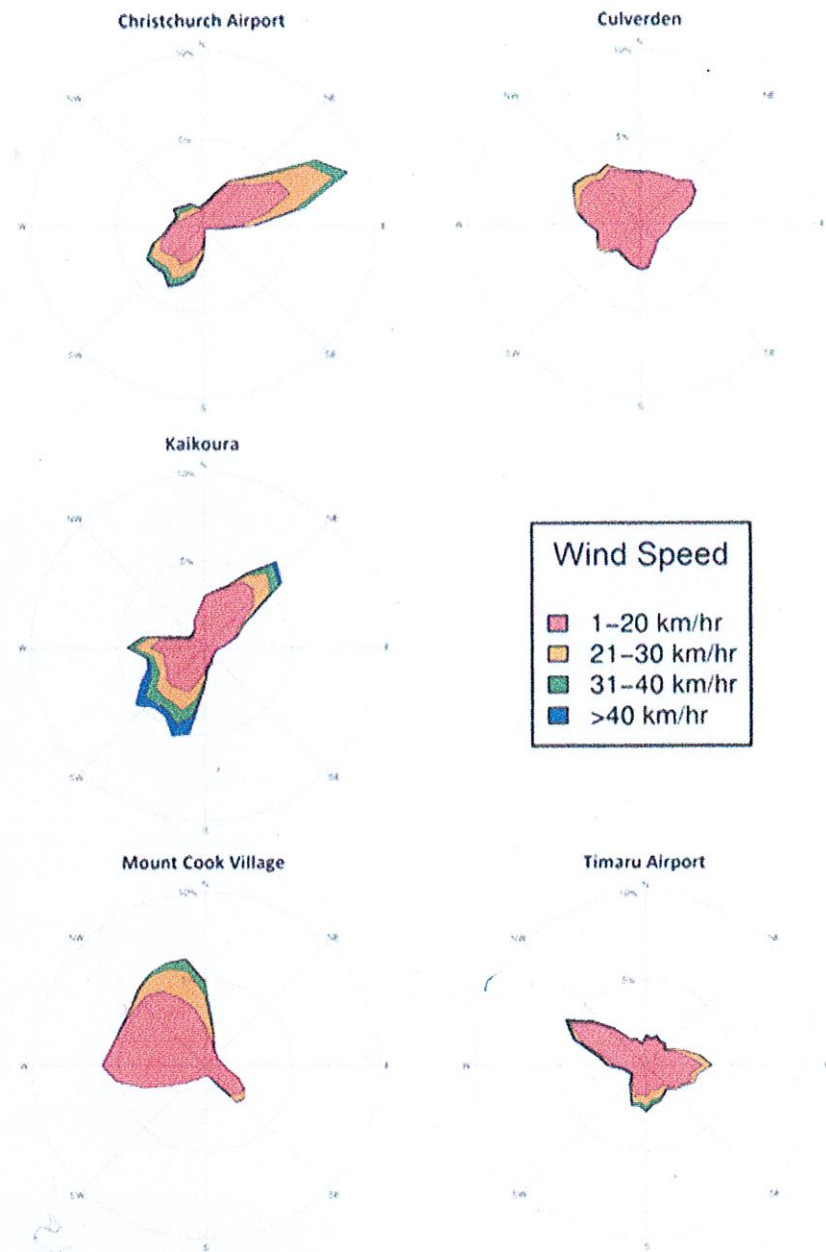


Figure 5. Mean annual wind frequencies [%] of surface wind directions from hourly observations at selected Canterbury stations. The plot shows the directions from which the wind blows, e.g. the dominant wind direction at Christchurch Airport is from the east-north-east.

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# RESOURCE CONSENT CRC142884

Pursuant to Section 104 of the Resource Management Act 1991

The Canterbury Regional Council (known as Environment Canterbury)

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GRANTS TO: Fiona Mary Buhler, Robert Adolf Buhler  
A DISCHARGE PERMIT: to discharge contaminants onto land  
COMMENCEMENT DATE: 26 Feb 2014  
EXPIRY DATE: 26 Feb 2029  
LOCATION: 680 South Eyre Road, East Eyreton

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## SUBJECT TO THE FOLLOWING CONDITIONS:

### GENERAL CONDITIONS

- 1 The discharges shall be only:
  - a. pig effluent diluted with washdown water (the Diluted Discharge) originating from the piggery located as shown on Plan CRC142884, which forms part of this consent.
  - b. pig manure and vegetative material containing pig excrement (the Solid Discharge) originating from the piggery located as shown on Plan CRC142884.

**Advice note:** This consent does not authorise the discharge to air of contaminants, including odour, from effluent spreading. At the date of granting this consent, the consent holder confirmed that the discharge to air from effluent spreading was a permitted activity under Rule AQL65 of the Natural Resources Regional Plan. Rule AQL65 must be complied with until such time as it is replaced with a new rule.

- 2 The Diluted Discharge shall only be from a maximum of 2,552 Standard Pig Units (SPU). The Solid Discharge shall only be from a maximum of 306 SPU. The Diluted Discharge and Solid Discharge shall only be from a total combined maximum of 2,552 SPU. For the purposes of this consent, an SPU shall be classified using the criteria in the following table:



Pig Class	Mass Range (kg)	Age Range (weeks)	SPU Factor
Gilt	100 - 160	24 - 30	1.8
Boar	100 - 300	24 - 128	1.6
Gestating sow	160 - 230	NA	1.6
Lactating sow	160 - 230	NA	2.5
Sucker	1.4 - 8	0 - 4	0.1
Weaner	8 - 25	4 - 10	0.5
Grower	24 - 55	10 - 16	1
Finisher	55 - 100	16 - 24	1.6
Heavy finisher	100 - 130	24 - 30	1.8

- 3 The Diluted Discharge shall only occur within the area labelled "Diluted Effluent Discharge Area" on Plan CRC142884. The Solid Discharge shall only occur within the area labelled "Solid Pig Waste Discharge Area" on Plan CRC142884.

#### THE DILUTED DISCHARGE

- 4 The Diluted Discharge shall only occur to land via a slurry tanker or slurry wagon.
- 5 The Diluted Discharge shall not occur onto an area of land more than once in any calendar year and no more than once in any consecutive 10 month period within the area labelled as the "Provisional Drinking Water Supply Protection Zone" on Plan CRC142884.
- 6 The Diluted Discharge shall not:
- exceed an application depth of 10 millimetres within any consecutive 24 hour period; or
  - result in effluent runoff or effluent ponding on the land surface.

- 7 The consent holder shall record the following details about the Diluted Discharge:
- a. The name of the land owner;
  - b. The date and time of the discharge;
  - c. The physical address of the property or the legal description;
  - d. A map or suitable written description of what areas of the property were discharged onto;
  - e. The approximate volume of the discharge and the area it was spread over; and
  - f. The average amount of total nitrogen applied to the area of the property it was discharged onto in kilograms per hectare.

The record shall be kept for a period of no less than two years and shall be provided annually to Canterbury Regional Council, Attention: RMA Compliance and Enforcement Manager in February each year, and on request.

- 8 Before each discharge occurs, the consent holder shall advise the property owner in writing of the average amount of total nitrogen that will be applied per hectare.

#### THE SOLID DISCHARGE

- 9 The Solid Discharge shall be in a solid or semi-solid state.
- 10 The Solid Discharge shall not be discharged onto the same area of production land more frequently than once every two months.
- 11 The Solid Discharge shall not occur onto land where pig manure or vegetative material containing animal excrement from a previous application is still visible on the land surface.
- 12 The Solid Discharge shall not occur when the soil moisture exceeds field capacity.

#### THE DILUTED AND SOLID DISCHARGES

- 13 The total combined nitrogen loading rate from the Diluted Discharge and the Solid Discharge shall not exceed:
- a. 200 kilograms of nitrogen per hectare per year; or
  - b. 100 kilograms of nitrogen per hectare within any consecutive three month period;

when calculated using the amount of nitrogen estimated to have been deposited in the piggery buildings.

**Advice note:** When this consent was granted it was considered that a likely maximum of 23,478 kilograms of nitrogen would be deposited in the piggery each year from 2,552 SPU. To comply with this condition, the discharge needs to occur evenly over at least 117.4 hectares per year and 58.7 hectares within any consecutive three month period.



- 14 The Diluted Discharge and Solid Discharge shall not:
- a. enter, or be onto land within 20 metres of any wetland, surface water body, artificial watercourse or bore; or
  - b. be onto saturated, frozen or snow covered soil.
- 15 The consent holder shall prepare and adhere to a current Effluent Management Plan (EMP), which clearly details the measures which will be taken to ensure compliance with conditions (5) to (14). Copies of the EMP shall be given to all persons undertaking activities authorised by this consent, and a copy kept in the piggery at all times.

#### **ADMINISTRATIVE CONDITIONS**

- 16 The Canterbury Regional Council may, once per year, on any of the last five working days of May or November, serve notice of its intention to review the conditions of this consent for the purposes of dealing with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage.
- 17 If this consent is not exercised before 31 March 2019, it will lapse in accordance with Section 125 of the Resource Management Act 1991.

**Issued at Christchurch on 26 February 2014**

Canterbury Regional Council



