

Under the Resource Management Act 1991

In the matter of Plan Variation 2 – Additional Housing Capacity to the Proposed District Plan by Dunedin City Council

Legal submissions for Kāinga Ora – Homes and Communities

10 September 2021

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Legal submissions for Kāinga Ora – Homes and Communities

May it please the Hearings Panel:

1 Summary of Kāinga Ora’s position

- 1.1 Plan Variation 2 seeks to establish a separate activity classification for ‘social housing’. Kāinga Ora opposes Plan Variation 2 to that extent. It considers that for two reasons the Plan Variation is unlawful:
 - (a) The proposed provisions will adversely impact on the social wellbeing of the community, contrary to s 5 of the RMA and are inconsistent with the National Policy Statement on Urban Development 2020 (**NPS-UD**); and
 - (b) there is an insufficient evidential basis on which to draw a distinction between private housing developments and social housing developments.
- 1.2 Kāinga Ora is concerned that the identification of ‘social housing’ as a separate sub-activity with specific provisions:
 - (a) will operate to further stigmatise social housing and people who live in social housing; and
 - (b) will compromise the ability to provide a framework to enable the delivery of sustainable, inclusive and thriving communities.
- 1.3 Kāinga Ora requests that the deletions or other amendments set out in **Appendix A** (taken from its submission), are made.
- 1.4 A summary of Kāinga Ora’s origin, the statutory framework it operates within and the scope of its role and interest in planning processes is set out in **Appendix B**.

2 Proposed ‘social housing’ provisions

- 2.1 Plan Variation 2 seeks amendments to the Second Generation Dunedin City District Plan (**2GP**).
- 2.2 Plan Variation 2 proposes to respond to the report by the Mayor’s Taskforce for Housing 2019, “Housing Action Plan for Dunedin 2019-2039”. In particular, it proposes to respond to the recommendation that the Council should develop tools to ensure new developments help meet Dunedin’s social and affordable housing needs (Action 2.4). Change C1 in Plan Variation 2 purports to respond to this recommendation by enabling medium density ‘social housing’ in General Residential 1 and some Township and Settlement zoned areas where standard density residential rules apply.

Current approach to social housing

- 2.3 Social housing is currently managed in the 2GP within the broad definition of ‘standard residential’ activity. There are no provisions that explicitly provide for

social housing. Multi-unit development is not currently enabled by the 2GP in the General Residential 1 Zone and Township and Settlement Zone. In these zones, the performance standard for density (Rule 15.5.2) currently allows for one residential unit per 500m² of site area.¹ Not meeting this standard results in non-complying activity status.

Proposed changes (Change C1)

- 2.4 Change C1 includes adding a new sub-activity under ‘standard residential’ activity, being ‘social housing’. This links to a new definition for ‘social housing’, which is defined as a:
- Residential activity where premises are let by or on behalf of the DCC; or by Kāinga Ora-Homes and Communities or a registered community housing provider where in accordance with the Public and Community Housing Management Act 1992.
- 2.5 The Council has proposed to make contravention of the density standard by ‘social housing’ a restricted discretionary activity (rather than non-complying) in the General Residential 1 Zone and Township and Settlement Zone, provided it meets the density standard for General Residential 2 Zone. The matters of discretion are proposed to be:
- (a) effects on efficiency and affordability of infrastructure – to ensure that the effects arising from the additional density of activity on public infrastructure are managed; and
 - (b) effects on accessibility – encouraging medium density social housing to locate where there is good walking access to public transport.
- 2.6 Kāinga Ora seeks to remove these social housing provisions (except for changes sought regarding multi-unit development provisions). Kāinga Ora specifically opposes:
- (a) the amendment to the nested table for the residential activities category to include ‘social housing’;
 - (b) the addition of a ‘social housing’ definition;
 - (c) the amendments to the definition of ‘standard residential’ to include social housing;
 - (d) the addition of Policy 2.6.1.X on density for social housing;
 - (e) the addition of Policy 6.2.2.X on accessibility for social housing;
 - (f) the addition of assessment rules at Rule 6.10.3.X; Rule 9.5.3.AA, and Rule 15.10.3.X in relation to social housing;
 - (g) the amendments to the introduction to the General Residential 1 Zone at 15.1.1.1 in relation to social housing; and
 - (h) the amendments to the performance standard for density at Rule 15.5.2.4 in relation to social housing.

¹ Except within a no DCC reticulated wastewater mapped area.

- 2.7 Kāinga Ora agrees that the status quo is ineffective in ensuring Objective 2.6.1 is achieved regarding the provision of social housing to meet the community's needs. However it considers that there is no legal or evidential basis on which to support these particular amendments.

3 Unlawful distinction and unidentified effects link

- 3.1 Kāinga Ora submits that the proposed social housing provisions are unlawful because they are contrary to the purpose of the RMA and Objective 1 of the NPS-UD. This is because the provisions will not provide for social well-being of people and communities. Instead the provisions will operate to adversely affect the social wellbeing of those who live in social housing.

- 3.2 A territorial authority must prepare and change its district plan having regard to:²

- (a) its functions under section 31; and
- (b) the provisions of Part 2; and
- (c) a direction given under section 25A(2); and
- (d) its obligation (if any) to prepare an evaluation report in accordance with section 32; and
- (e) its obligation to have particular regard to an evaluation report prepared in accordance with section 32; and
- (ea) a national policy statement, a New Zealand coastal policy statement, and a national planning standard; and
- (f) any regulations.

- 3.3 Section 5(1) sets out that the purpose of the RMA is to “promote the sustainable management of natural and physical resources”. Section 5(2) defines “sustainable management” in the following way:

In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which **enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety** while—

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
- (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and

² Resource Management Act 1991, s 74(1).

(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

- 3.4 As set out in [3.1], a territorial authority must also consider relevant national policy statements. In this case, that includes that NPS-UD.³ Objective 1 of the NPS-UD seeks to achieve “well-functioning urban environments that enable all people and communities to provide for their social, economic and cultural wellbeing and for their health and safety”. Under the RMA, “social” carries its ordinary dictionary meaning, that is an adjective denoting a way in which people relate to or behave towards one another.⁴
- 3.5 In making district plan rules relating to housing for a broadly social wellbeing purpose, a territorial authority must identify a link between the effects of the use or development of the land the territorial authority is seeking to control (here, density standards), and the objectives, policies and methods it is proposing (here, enabling social housing).⁵ The Council has relied on *Infinity Investment Group Holdings Ltd v Queenstown Lakes District Council* in support of its argument, but it actually supports Kāinga Ora’s argument.
- 3.6 In that case, the High Court was asked to consider the legality of Plan Change 24 (as an appeal from the Environment Court’s decision on the preliminary question of law). The Court confirmed the now uncontroversial proposition that the management of issues affecting the affordability of housing falls both within the functions of a territorial authority under section 31 of the RMA, but also within the statutory concept of sustainable management which expressly recognises the need to develop and manage physical resources so as to provide for the social and economic wellbeing of all people and all sections of the community. In that respect, managing the issue of affordable housing falls within the functions of a territorial authority under section 31 of the RMA, namely, to establish objectives, policies and methods to achieve the integrated management of the effects of the use or development of land (subsection (b)).
- 3.7 But that is as far as the Court went. It caveated that proposition by noting that:⁶
- It goes without saying that there must be a link between the effects of the use or development of the land and the objectives, policies and methods that are established to achieve integrated management. Moreover, that the purpose must give effect to the Act.
- 3.8 Importantly, therefore, while noting that the proposed provisions fell within the framework of territorial authority functions described in section 31 (as, it is

³ For the avoidance of doubt, considering the NPS-UD in the context of the proposed social housing provisions is required under s 74(1) of the RMA. Doing so is not out of scope of the Plan Variation notwithstanding that in *Minute 1: Appointment of the Hearing Panel, and Initial Submission Processes* (dated 1 April 2021), the Commissioners noted that the Council chose to limit the scope of Plan Variation 2 to “not pre-empt or interfere with the broader strategic growth planning work that needs to be done as part of the Future Development Strategy (FDS), which is required by the National Policy Statement on Urban Development (NPS-UD)”.

⁴ *Ngataranga Bay 2000 Inc v AG* PT Auckland A016/94 at 26; and *Stop Action Group v Auckland Regional Authority* HC Wellington M514/85, 31 July 1987 at 90.

⁵ *Infinity Investment Group Holdings Ltd v Queenstown Lakes District Council* [2011] NZRMA 321 at [41].

⁶ *Infinity* at [41].

acknowledged, the general issue of social housing does here), the Court warned that:⁷

[T]he requirement to provide affordable housing will only arise if the development is construed as having an impact on the issue of affordable housing (in terms of an assessment under Appendix 11). Thus, the requisite link between the effects and the instrument used to achieve integrated management exist[s].

- 3.9 So while social housing is a matter that may be addressed generally within the resource management system, that must occur having regard to the effects that are sought to be addressed. The use to which the housing is put is not an adequate basis on which to justify distinguishing on the issue of density. The necessary link is entirely absent. In other words, the Council has failed to identify any adverse effects on the environment that give rise to the need to treat the “social housing” activity differently from other residential activity.
- 3.10 Nothing in the RMA authorises distinguishing, for the purposes of regulating housing density, between social housing and housing generally. The effect of the proposed social housing provisions will be to further stigmatise social housing and those who live in it. There is wide spread academic consensus that social housing and people who live in social housing are stigmatised.⁸ It is therefore important that the Council does not introduce provisions that differentiate between social housing and private housing, or on the basis of the identity of the applicant. This is because these provisions would exacerbate the pre-existing stigma surrounding social housing and create the impression that social housing needs to be treated differently than other housing.
- 3.11 While Kāinga Ora recognises that the proposed social housing provisions provide a more lenient pathway through which to develop dense social housing, it considers this ‘benefit’ will operate to adversely affect the social wellbeing of those who live in social housing. The distinction implies that people who live in social housing should live in more dense housing conditions than the general population. This reflects, and/or inadvertently exacerbates, the already existing prejudice in society about access to certain living arrangements. Therefore the social housing provisions will adversely affect the way in which people relate and behave towards people who live in social housing.
- 3.12 The s 42A report notes that similar provisions have already been included through the 2GP process for retirement villages, rest homes and student hostels. These provisions take a more lenient approach to density than for standard residential activity. It states that this approach:

recognise[s] the positive effects of these types of housing, the lower risk of cumulative effects due to the lower frequency of these activities compared to standard residential activity, and the different

⁷ *Infinity* at [42].

⁸ See Lotta Junnilainen “Place Narratives and the Experience of Class: Comparing Collective Destigmatization Strategies in Two Social Housing Neighborhoods” (2020) 8(1) *Social Inclusion* 44; Kay Saville-Smith, Nina Saville-Smith and Bev James *Neighbourhood Social Mix and Outcomes for Social Housing Tenants: Rapid Review* (Centre for Research, Evaluation and Social Assessment, November 2015); and Alistair Sisson and Pratchi Chatterjee “Why public housing is stigmatised and how we can fix it” (7 August 2020) *The Conversation* <www.theconversation.com>. Kāinga Ora does not necessarily agree with the policy positions in these papers.

requirements in terms of built form that are required for these activities to be provided effectively and efficiently.

- 3.13 Kāinga Ora submits in response that social housing cannot be compared with rest homes, retirement villages and student hostels. The nature of these establishments is adequate to justify making a distinction for the purposes of density. And residents of these supported living facilities do not face the same stigma and criticism by their community. As well, it is notable that these provisions do not differentiate based on the identity of the consent applicant (as is the case for the proposed social housing provisions). This is a further unlawful aspect of the provisions, and this is discussed in greater detail below.

4 Evidential basis required

- 4.1 The proposed social housing provisions seek to create a more lenient activity status for social housing developments within the General Residential 1 Zone and Township and Settlement Zone. It is therefore important that there is an evidential basis that supports the distinction between public and private housing development.
- 4.2 The classification of an activity by status is authorised by s 77A of the RMA. Such classification, like all rules in a district plan, must be examined and assessed in accordance with the requirements of s 32 of the RMA and consistent with the requirement under s 76(3) of the RMA to have regard to the actual or potential effect on the environment of the activity under consideration including, in particular, any adverse effect.⁹
- 4.3 Section 32:
- (a) Creates an obligation to justify provisions that impact on the social wellbeing of communities.
 - (b) Adopts a rigorous “most appropriate” test in terms of assessing proposed objectives and lower order provisions. In order to reach a conclusion in terms of that test, the decision-maker needs to identify and assess a range of options for achieving the purpose of the RMA or the objectives.
 - (c) Explicitly requires consideration of the social effects that are anticipated from the implementation of the provisions.
- 4.4 It is inherent in those obligations that provisions that will impact on the social fabric of society and provide advantages to certain applicants based solely on their identity must be supported by a strong evidential base. In the absence of such an evidential base there is no justification for introducing a regulatory framework.

⁹ *Royal Forest & Bird Protection Society of New Zealand Inc v Whakatane District Council* [2017] NZEnvC 51 at [63].

- 4.5 The NPS-UD reinforces the need for evidence-based planning.¹⁰
- 4.6 Evidence is required in two respects:
- (a) Evidence will be required as to the resource management issue to be managed. At its most fundamental, that involves establishing that there is an issue that requires management (ie making it easier for social housing to be built more densely than general housing).
 - (b) When and if it is established that an issue exists that requires regulation, an evidential basis is required when assessing the impact of the proposed response. In this case that involves assessing the impact of the proposed social housing provisions on people who live in social housing, as well as the wider community.
- 4.7 Kāinga Ora submits that the Council has failed to satisfy its obligations under s 32 because it has not provided any evidence on which to establish that the proposed provisions will generate positive social effects and will not generate adverse social effects. There is no adequate evidence to justify differential treatment (in regards to activity status) for developers of social housing, as opposed to private developers. And even if it did, this would not justify limiting the definition of social housing specifically to Dunedin City Council, Kāinga Ora or registered community housing providers (where in accordance with the Public and Community Housing Management Act 1992).
- 4.8 To highlight again that rest homes, retirement villages and student hostels are not an appropriate comparator, it is notable that the definitions of rest homes, retirement villages and student hostels (supported living facilities) do not list specific developers. For example, rest homes are defined as:
- Supported living facilities licensed as a rest home or hospice that provide full time care of the elderly or infirm. This definition excludes activities defined as hospital or retirement villages. Rest homes are a sub-activity of supported living facilities.
- 4.9 Kāinga Ora submits that housing should be treated as one activity and rules should not be created on the basis of the identity of the applicant. Indeed, it goes further and says that in a fundamentally effects based system for managing resources (which the RMA is), it is inconsistent and therefore unlawful to create a density rule affording a more lenient framework to certain persons when in principle the effects of any development on the same residential site could be the same whether created by a private developer, the Council, or Kāinga Ora.

5 Precedent effect

- 5.1 Another way of thinking about the distinction being drawn is to consider it from the reverse perspective. If it is lawful to make an activity status classification for social housing on the basis of enabling or incentivizing it, then it would arguably also be lawful to do the reverse and set a more onerous activity status for social housing in other areas to disincentivise it. In other words, a plan could make social housing a non-complying activity in particularly well-off areas. This would impact on the ability to develop “inclusive” and “thriving” communities. The

¹⁰ NPS-UD, cl 3.11.


unlawfulness of such a plan is hopefully obvious, but if the distinction the Council seeks to draw is adopted, it would logically also be a permissible approach.

- 5.2 Finally, (and recognising the issue of cumulative effects), as a matter of logic if it is acceptable for the identified parties to construct more dense social housing than the relevant activity standard would otherwise suggest, the corollary is that it must also be acceptable to construct more dense housing in general. If so, that suggests that the Council ought to be considering altering the density standard as part of its implementation of the NPS-UD.

6 Conclusion

- 6.1 For the reasons set out above, Kāinga Ora requests that the proposed social housing provisions in Plan Variation 2 be rejected.

Date: 10 September 2021



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Nick Whittington
Counsel for Kāinga Ora – Homes and Communities

Appendix A – Deletions/amendments sought

No.	Issue / Provision	PV2 summary of changes reference	Relief sought: Relief / Amendments sought by Kāinga Ora is shown in red . Additions are underline and deletion is in red strikethrough . Note (...) means there is more text present in Variation 2 that is not included below for brevity. Black text underlined or strikethrough are the provisions as notified in Variation 2. All amendments & relief sought from Kāinga Ora can be further found in <i>Attachment 3</i> .											
Chapter A – Section 1.3: Nested tables														
1.	1.3.2 Land Use activities	C1	<p>Residential Activities Category</p> <table border="1"> <thead> <tr> <th>Activities</th> <th>Sub-activities</th> </tr> </thead> <tbody> <tr> <td rowspan="3">Supported living facilities</td> <td>Rest homes</td> </tr> <tr> <td>Retirement villages</td> </tr> <tr> <td>Student hostels</td> </tr> <tr> <td rowspan="2">Standard residential</td> <td>Papakāika</td> </tr> <tr> <td>Social housing</td> </tr> <tr> <td>Working from home</td> <td>...</td> </tr> </tbody> </table>	Activities	Sub-activities	Supported living facilities	Rest homes	Retirement villages	Student hostels	Standard residential	Papakāika	Social housing	Working from home	...
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Chapter A – Section 1.4: Definitions														
2.	1.4 Social housing	C1	<p>Social Housing</p> <p>Residential activity where premises are let by or on behalf of the DCC; or by Kāinga Ora Homes and Communities or a registered community housing provider where in accordance with the Public and Community Housing Management Act 1992.</p>											
3.	1.4 Standard residential	C1	<p>Standard Residential</p> <p>The use of land and buildings for residential activity at a domestic scale. For the sake of clarity, this definition includes:</p> <ul style="list-style-type: none"> • Short-term house rentals • boarding houses • Supported living accommodation (with 10 or fewer residents); and • Emergency and refuge accommodation. <p>This definition excludes supported living facilities.</p> <p>Papakāika and social housing are <u>is</u> managed as <u>a</u> sub-activities of standard residential.</p>											
Chapter A – Section 2: Strategic direction														
4.	Policy 2.6.1.X [to be added]	C1	<p>Policy 2.6.1.X</p> <p>Encourage the provision of new social housing through rules that provide a more enabling activity status for social housing that exceeds the density standard than for other types of standard residential activity in the General Residential 1 and Township and Settlement zones, except in a no DCC reticulated wastewater mapped area.</p>											

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Chapter B – Section 6: Transportation																							
5.	Policy 6.2.2.X [to be added]	C1	<p>Policy 6.2.2.X</p> <p>Only allow medium density social housing in the General Residential 1 or Township and Settlement zones (except in a no-DCC reticulated wastewater mapped area) where it is located where there is convenient walking access to public transport services.</p>																				
6.	Rule 6.10.3.X [to be added] Assessment criteria for the contraventions of transportation standards	C1	<table border="1" data-bbox="1032 600 2754 1461"> <thead> <tr> <th colspan="4" data-bbox="1032 600 2754 674">6.10.3 Assessment of performance standard contraventions (performance standards located in zones)</th> </tr> <tr> <th data-bbox="1032 674 1344 726">Performance standard</th> <th data-bbox="1344 674 1665 726">Matters of discretion</th> <th colspan="2" data-bbox="1665 674 2754 726">Guidance on the assessment of resource consents</th> </tr> </thead> <tbody> <tr> <td colspan="4" data-bbox="1032 726 2754 779">...</td> </tr> <tr> <td data-bbox="1032 779 1077 1052">8.</td> <td data-bbox="1077 779 1344 1052">Number, location and design of ancillary signs</td> <td data-bbox="1344 779 1665 1052">a. Effects on the safety and efficiency of the transport network</td> <td data-bbox="1665 779 2754 1052"> <p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 6.2.3 ii. Ancillary signs are located and designed to avoid or, if avoidance is not practicable, adequately mitigate adverse effects on the safety and efficiency of the transport network (Policy 6.2.3.1). <p><i>Potential circumstances that may support consent application include:</i></p> <ul style="list-style-type: none"> iii. The location of the sign will not obstruct or obscure sightlines, pedestrian and cycling or vehicle access. </td> </tr> <tr> <td data-bbox="1032 1052 1077 1461">X.</td> <td data-bbox="1077 1052 1344 1461">Density: social housing in the GR1 Zone or T&S Zone (except in a no-DCC reticulated wastewater mapped area) (Rule 15.5.2.4.y)</td> <td data-bbox="1344 1052 1665 1461">a. Effects on accessibility</td> <td data-bbox="1665 1052 2754 1461"> <p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 6.2.2 ii. Medium density social housing in the General Residential 1 or Township and Settlement zones (except in a no-DCC reticulated wastewater mapped area) is located where there is convenient walking access to public transport services (Policy 6.2.2.x). </td> </tr> </tbody> </table>	6.10.3 Assessment of performance standard contraventions (performance standards located in zones)				Performance standard	Matters of discretion	Guidance on the assessment of resource consents		...				8.	Number, location and design of ancillary signs	a. Effects on the safety and efficiency of the transport network	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 6.2.3 ii. Ancillary signs are located and designed to avoid or, if avoidance is not practicable, adequately mitigate adverse effects on the safety and efficiency of the transport network (Policy 6.2.3.1). <p><i>Potential circumstances that may support consent application include:</i></p> <ul style="list-style-type: none"> iii. The location of the sign will not obstruct or obscure sightlines, pedestrian and cycling or vehicle access. 	X.	Density: social housing in the GR1 Zone or T&S Zone (except in a no-DCC reticulated wastewater mapped area) (Rule 15.5.2.4.y)	a. Effects on accessibility	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 6.2.2 ii. Medium density social housing in the General Residential 1 or Township and Settlement zones (except in a no-DCC reticulated wastewater mapped area) is located where there is convenient walking access to public transport services (Policy 6.2.2.x).
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Chapter C – Section 9: Public health and safety												
7.	Rule 9.5.3.AA – Assessment of restricted discretionary activities	C1	<table border="1"> <thead> <tr> <th colspan="3" data-bbox="973 411 2742 485">9.5.3 Assessment of performance standard contraventions</th> </tr> <tr> <th data-bbox="973 485 1359 562">Performance standard</th> <th data-bbox="1359 485 1700 562">Matters of discretion</th> <th data-bbox="1700 485 2742 562">Guidance on the assessment of resource consents</th> </tr> </thead> <tbody> <tr> <td data-bbox="973 562 1359 1520"> <p>AA. Density social housing in the GR1 Zone or T&S Zone (except in a no-DCC reticulated wastewater mapped area) (Rule 15.5.2.4.Y)</p> </td> <td data-bbox="1359 562 1700 1520"> <p>a. Effects on efficiency and affordability of infrastructure (wastewater and water supply)</p> </td> <td data-bbox="1700 562 2742 1520"> <p><i>Relevant objectives and policies:</i></p> <p>i. Objective 9.2.1.</p> <p>ii. Only allow land use activities that may result in land use or development activities in a wastewater serviced area where:</p> <p>1. it will not exceed the current or planned capacity of that infrastructure at the time of development or compromise its ability to service any permitted activities; or</p> <p>2. for controlled and restricted discretionary land use activities, communal on-site wastewater detention infrastructure can be integrated into the public wastewater network prior to development in a way that meets DCC's requirements; or</p> <p>3. an unplanned upgrade to the public wastewater network that addresses any capacity constraints can be implemented prior to development with agreement from the DCC (Policy 9.2.1.1A).</p> <p>iii. Only allow land use activities that may result in land use or development activities in an area with public water supply where:-</p> <p>1. it will not exceed the current or planned capacity of that infrastructure at the time of development or compromise its ability to service any permitted activities; or</p> <p>2. an unplanned upgrade to the public water supply network that addresses any capacity constraints can be implemented prior to development with agreement from the DCC (Policy 9.2.1.4).</p> <p>iv. Only allow land use activities that may result in land use or development activities in an area without public water supply where:</p> <p>1. it will not lead to future pressure for unplanned expansion of public water supply infrastructure; or</p> <p>2. an unplanned extension (and any necessary upgrade) to the public water supply network to provide for the activities can be implemented prior to development with agreement from the DCC (Policy 9.2.1.4A).</p> </td> </tr> </tbody> </table>	9.5.3 Assessment of performance standard contraventions			Performance standard	Matters of discretion	Guidance on the assessment of resource consents	<p>AA. Density social housing in the GR1 Zone or T&S Zone (except in a no-DCC reticulated wastewater mapped area) (Rule 15.5.2.4.Y)</p>	<p>a. Effects on efficiency and affordability of infrastructure (wastewater and water supply)</p>	<p><i>Relevant objectives and policies:</i></p> <p>i. Objective 9.2.1.</p> <p>ii. Only allow land use activities that may result in land use or development activities in a wastewater serviced area where:</p> <p>1. it will not exceed the current or planned capacity of that infrastructure at the time of development or compromise its ability to service any permitted activities; or</p> <p>2. for controlled and restricted discretionary land use activities, communal on-site wastewater detention infrastructure can be integrated into the public wastewater network prior to development in a way that meets DCC's requirements; or</p> <p>3. an unplanned upgrade to the public wastewater network that addresses any capacity constraints can be implemented prior to development with agreement from the DCC (Policy 9.2.1.1A).</p> <p>iii. Only allow land use activities that may result in land use or development activities in an area with public water supply where:-</p> <p>1. it will not exceed the current or planned capacity of that infrastructure at the time of development or compromise its ability to service any permitted activities; or</p> <p>2. an unplanned upgrade to the public water supply network that addresses any capacity constraints can be implemented prior to development with agreement from the DCC (Policy 9.2.1.4).</p> <p>iv. Only allow land use activities that may result in land use or development activities in an area without public water supply where:</p> <p>1. it will not lead to future pressure for unplanned expansion of public water supply infrastructure; or</p> <p>2. an unplanned extension (and any necessary upgrade) to the public water supply network to provide for the activities can be implemented prior to development with agreement from the DCC (Policy 9.2.1.4A).</p>
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Chapter D – Section 15: Residential Zones												
8.	15.1.1.1 – General Residential 1 Zone description	A1, A2, A3, B1, c1 and E1	<p>15.1.1.1 General Residential 1</p> <p>The General Residential 1 Zone covers the city's hill suburbs and valleys of the main urban area of Dunedin and Mosgiel and is characterised by low density suburban residential living.</p> <p><u>The General Residential 1 Zone covers the majority of the middle to outer suburban areas of Dunedin and Mosgiel and is often applied when rezoning areas of greenfield land on the urban fringes. Historically, this zone has been characterised by relatively low density suburban development patterns, which arose from a long-standing minimum site size requirement of 500m² and allowance for one dwelling per site. However, as a result of development of the 2GP and its subsequent variation ('Variation 2'), these rules have been amended to enable change in residential character over time to a slightly denser suburban form, but with retention of requirements around maximum site coverage and provision of outdoor living space to maintain suburban green space.</u></p> <p><u>The anticipated future character of the General Residential 1 Zone will include:</u></p> <ul style="list-style-type: none"> o <u>stand-alone dwellings, duplexes, and occasionally on larger sites multi-unit attached, 'terrace style' developments up to 9m in height;</u> o <u>sites generally between 400m² and 800m² in size;</u> o <u>a greater variety in site sizes encouraged by flexibility in the minimum site size rule;</u> o <u>small (up to 80m²) ancillary residential units where site sizes allow; and</u> o <u>larger developments that house supported living facilities (rest homes, student hostels) or social housing where site sizes allow.</u> <p>...</p>									
9.	Rule 15.5.2 Land Use Performance Standard – Density	A2, A3, B1, B3, B4, B6, C1 & E9, F3-3	<table border="1" data-bbox="982 1094 2724 1455"> <thead> <tr> <th data-bbox="982 1094 1041 1245">Zone</th> <th data-bbox="1041 1094 2050 1245">i. Minimum site area for a residential unit (excluding family flats ancillary residential units)</th> <th data-bbox="2050 1094 2724 1245">i. ii. Maximum development potential per site</th> </tr> </thead> <tbody> <tr> <td data-bbox="982 1245 1041 1402">a. General Residential 1 Zone</td> <td data-bbox="1041 1245 2050 1402">1 per 5400m² or 2 per 500m² where in a single residential building or in <u>the form of a duplex</u></td> <td data-bbox="2050 1245 2724 1402">1 habitable room per 100m²</td> </tr> <tr> <td colspan="3" data-bbox="982 1402 2724 1455">...</td> </tr> </tbody> </table> <p>4. Standard residential activity that contravenes the performance standard for density is a non-complying activity, except <u>contravention of the following standards only is a</u> are restricted discretionary activities:</p> <ul style="list-style-type: none"> a) papakāika that contravenes the performance standards for density; b) standard residential in the General Residential 2 Zone (infrastructure wastewater constraint mapped area) that contravenes the performance standards for maximum development potential per site (15.5.2.1.c.ii), provided the maximum development potential per site of the activity proposed does not exceed 1 habitable room per 45m²; c) contravention of Rule 15.5.2.3 (bulk and location performance standards for multiple residential buildings on the same site); and <p>X. standard residential in the ICR Zone that contravenes the performance standard for maximum development potential per site (15.5.2.1.e.ii), provided the maximum development potential per site of the activity proposed does not exceed 1 habitable room per 30m². ;and</p>	Zone	i. Minimum site area for a residential unit (excluding family flats ancillary residential units)	i. ii. Maximum development potential per site	a. General Residential 1 Zone	1 per 5400m² or 2 per 500m ² where in a single residential building or in <u>the form of a duplex</u>	1 habitable room per 100m ²	...		
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			<p>Y. — social housing in the General Residential 1 and Township and Settlement zones (except in a no-DCC reticulated wastewater mapped area) where it meets the density standard for General Residential 2.</p>																				
10.	Rule 15.10.3.X [to be added] Assessment of restricted discretionary activities – Density	C1	<table border="1" data-bbox="982 520 2754 968"> <thead> <tr> <th colspan="4" data-bbox="982 520 2754 569">15.10.3 Assessment of land use performance standard contraventions</th> </tr> <tr> <th data-bbox="982 569 1774 646">Performance standard</th> <th data-bbox="1774 569 2258 646">Matters of discretion</th> <th colspan="2" data-bbox="2258 569 2754 646">Guidance on the assessment of resource consents</th> </tr> </thead> <tbody> <tr> <td colspan="4" data-bbox="982 646 2754 709">...</td> </tr> <tr> <td data-bbox="982 709 1774 848"> X. Density social housing in the GR1 Zone or T&S Zone (except in a no-DCC reticulated wastewater mapped area) (Rule 15.5.2.4.y) </td> <td data-bbox="1774 709 2258 848"> a. Effects on efficiency and affordability of infrastructure </td> <td colspan="2" data-bbox="2258 709 2754 848">See Rule 9.5</td> </tr> <tr> <td></td> <td data-bbox="1774 848 2258 968"> b. Effects on accessibility </td> <td colspan="2" data-bbox="2258 848 2754 968">See Rule 6.10</td> </tr> </tbody> </table>	15.10.3 Assessment of land use performance standard contraventions				Performance standard	Matters of discretion	Guidance on the assessment of resource consents		...				X. Density social housing in the GR1 Zone or T&S Zone (except in a no-DCC reticulated wastewater mapped area) (Rule 15.5.2.4.y)	a. Effects on efficiency and affordability of infrastructure	See Rule 9.5			b. Effects on accessibility	See Rule 6.10	
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Appendix B – Summary background to Kāinga Ora

- 1 Kāinga Ora was formed in 2019 as a statutory entity established under the Kāinga Ora-Homes and Communities Act 2019, which brought together Housing New Zealand Corporation, HLC (2017) Ltd and parts of the KiwiBuild Unit. Under the Crown Entities Act 2004, Kāinga Ora is a Crown entity and is required to give effect to Government policy.
- 2 Further government direction will be provided through the first Government Policy Statement on Housing and Urban Development (**GPS-HUD**), which will be published by 1 October 2021. This is intended to provide a shared vision and direction across housing and urban development, and to guide and inform the actions of all those who contribute. It will set out how Government and other parts of the housing and urban development system will work together to realise this vision. The GPS-HUD, once finalised, will shape future government policy, investment and programmes of work that will direct Kāinga Ora’s work programme.
- 3 Kāinga Ora is now the Government’s delivery agency for housing and urban development. Kāinga Ora will therefore work across the entire housing spectrum to build complete, diverse communities that enable New Zealanders from all backgrounds to have similar opportunities in life. As a result, Kāinga Ora has two core roles:
 - (a) being a world class public housing landlord; and
 - (b) leading and co-ordinating urban development projects.
- 4 Kāinga Ora’s statutory objective requires it to contribute to sustainable, inclusive, and thriving communities that:
 - (a) provide people with good quality, affordable housing choices that meet diverse needs;
 - (b) support good access to jobs, amenities and services; and
 - (c) otherwise sustain or enhance the overall economic, social, environmental and cultural well-being of current and future generations.
- 5 In the Dunedin region, the public housing portfolio managed by Kāinga Ora comprises around 1,430 dwellings.¹¹
- 6 Kāinga Ora’s tenants are people who face barriers (for a number of reasons) to housing in the wider rental and housing market. In general terms, housing supply issues have made housing less affordable around New Zealand and as such there is an increased demand for public housing. This is particularly so within the Dunedin region, where the Ministry of Social Development’s (**MSD**) housing waitlist register has increased – with 264 households as of December 2020.¹² As a result of COVID-19 pandemic this waiting list has increased further.

¹¹ As of 31 January 2021.

¹² Te Manatū Whakahiato Ora – Ministry of Social Development “Housing Register” (December 2020) <www.msd.govt.nz>.

- 7 The demand for public housing in Dunedin is changing towards one and two-bedroom units. Of the 264 households on the MSD’s waitlist for Dunedin as of September 2020:
- (a) 64 per cent of demand is for a one-bedroom unit;
 - (b) 23 per cent of demand is for a two-bedroom unit; and
 - (c) 13 per cent of demand is for a three or more bedroom unit.¹³
- 8 Kāinga Ora’s focus in recent times has been to provide public housing that matches the requirements of those most in need. To achieve this, it has largely focused on redeveloping its existing landholdings. Kāinga Ora will continue this approach of redeveloping existing sites by using them more efficiently and effectively, so as to improve the quality and quantity of public and affordable housing that is available.
- 9 In addition, Kāinga Ora will play a greater role in urban development more generally. The legislative functions of Kāinga Ora illustrate this broadened mandate and outline two key roles of Kāinga Ora in that regard.¹⁴
- (a) initiating, facilitating and/or undertaking development not just for itself, but in partnership with or on behalf of others; and
 - (b) providing a leadership or coordination role more generally.
- 10 Notably, Kāinga Ora’s statutory functions in relation to urban development extend beyond the development of housing (which includes public housing, affordable housing, homes for first home buyers, and market housing) to the development and renewal of urban environments, as well as the development of related commercial, industrial, community, or other amenities, infrastructure, facilities, services or works.¹⁵
- 11 Kāinga Ora’s new statutory mandate regarding urban development means that involvement in plan development for urban areas is a critical aspect of its role.

¹³ Te Manatū Whakahiato Ora – Ministry of Social Development, above n 12.

¹⁴ Kāinga Ora Act 2019, ss 12(f)-(g)

¹⁵ Kāinga Ora Act 2019, s 12(f).