



SECOND GENERATION DISTRICT PLAN

Variation 2

Additional Housing Capacity

Part 1 – Provisions

(Except 3 Waters Provisions)

Reporting Officer's Reply on Social Housing (Change C1)

Emily McEwan

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Primary Author

Name: Emily McEwan

Qualifications: MPlan, University of Otago; BSc (Geography), Massey University; DipHort (Landscape), Massey University.

Experience: I have approximately three years of planning experience, including preparing and processing resource consent applications and developing policy. I have been employed by the Dunedin City Council as a Policy Planner since May 2019.

Code of Conduct

I confirm that I have read, and agree to comply with, the Environment Court Code of Conduct for Expert Witnesses (Practice Note 2014).

Role in Variation 2 Preparation

I have been the primary planner for Variation 2 changes to Plan provisions, including all changes addressed in this Section 42A Report.

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1.0 Introduction

1. This report is prepared under the provisions of section 42A of the Resource Management Act 1991 (RMA) in response to evidence and presentations made by submitters at the hearing on the Variation 2 proposal for social housing (Change C1). It is prepared to assist the Panel in making decisions on this proposed change and includes comment on questions the Panel raised at the hearing.
2. This report has been prioritised to enable the Panel to seek independent legal advice on the proposal for social housing, prior to commencing deliberations. A further report responding to other topics addressed at the first Variation 2 hearing will be provided later.

2.0 Key Points on the Social Housing Proposal

3. There were several points raised at the hearing regarding the social housing proposal which indicate a need to clarify aspects of how the provisions would work. The points I wish to clarify are set out below.

2.1 When would the Plan treat housing as social housing?

4. It is important to understand that the Plan treats all housing that does not meet the definition of 'supported living facility' (e.g. retirement villages) as 'standard residential' activity. So, housing that might commonly be referred to as social housing is, and can be, provided under the existing Plan provisions as 'standard residential' activity. The Variation 2 proposal will not alter this approach in most instances.
5. The distinction for 'social housing' will only be made if a social housing provider listed in the definition chooses to take advantage of the restricted discretionary exemption to the density performance standard. This exemption would only apply in one specific circumstance:
 - when the housing meets the definition of 'social housing' (i.e. it is to be let by or on behalf of DCC, Kāinga Ora, or a registered community housing provider); and
 - when the housing is located in the General Residential 1 zone or Township & Settlement zone (except within a no DCC reticulated wastewater mapped area); and
 - when the housing would contravene the density performance standard if it were treated as a standard residential activity, but where it falls within the density enabled in the General Residential 2 zone.
6. In all other cases, housing that might commonly be referred to as social housing will continue to be treated as 'standard residential' activity under the Plan and its provision would not be further limited in any way by the adoption of the proposal.

2.2 Purpose of the social housing proposal and scope to broaden it

7. As set out in my earlier reports, the scope to amend proposals included in Variation 2 is limited in part by what the 'purpose of proposal and scope of change' statements for each change encompass. The relevant statement for Change C1 on social housing is:

The purpose of this proposal is to review whether to create separate provisions for social housing (similar to what is done for supported living facilities) so that it can have a more enabling framework for contravention of the density standard in the General Residential 1 and Township and Settlement zones...
8. I consider that the term 'social housing' within this statement should be considered to refer to the commonly understood meaning of social housing. However, any submissions seeking to broaden the social housing provisions to other types of housing in the specified zones would still fall within the scope of Variation 2

because they are within the ambit of the purpose of the broader changes to the density performance standard (including changes A2 and A3 etc.), which states:

The purpose of this proposal is to review the minimum site size (Rule 15.7.4) and density (Rule 15.5.2) performance standards for the General Residential 1 (GR1) and serviced Township and Settlement (T&S) zones to provide for more housing development capacity and housing choice within these zones, where appropriate...".

2.3 Ability to become a registered CHP

9. The proposed definition of social housing does not limit organisations from becoming registered community housing providers (so long as they can meet the registration requirements) to enable them to apply the social housing provisions.
10. Community housing providers currently registered in Dunedin include the following¹:
 - Habitat for Humanity New Zealand Limited
 - The Salvation Army
 - Just Housing Ōtepoti
 - Abbeyfield New Zealand Incorporated
11. Only one submitter (Dunedin City Baptist Church c/o Emma Peters) specifically addressed their ability or appetite to become a registered community housing provider.

2.4 Managing cumulative effects of denser housing

12. As noted in earlier reports and verbally at the hearing, the limitation of the social housing provisions to only the providers listed in the definition is to control the extent to which the provisions will be taken up to help manage cumulative adverse effects, particularly on 3 waters infrastructure, but also on residential character and amenity.
13. However, for this to be effective, the definition also only applies to the letting of houses (not selling or shared equity schemes) and this is important where any of the organisations included in the definition undertake other types of housing development (e.g. general housing for sale at market rates). This is so they cannot apply the provisions to these activities as well as to social housing. It is important to note that a 'not-for-profit' organisation could still undertake a commercial housing development to raise funds for their other activities, and Kāinga Ora has a broad mandate for housing development.
14. Also as noted earlier, it is difficult to manage cumulative effects through the consenting process and these are best managed by limiting the extent to which the provisions apply and making other activities non-complying.

3.0 Response to Kāinga Ora

15. This section responds to the legal submissions presented on behalf of Kāinga Ora. I note that there was no planning evidence provided by Kāinga Ora to respond to, although some of the matters discussed by Counsel for Kāinga Ora were planning issues not legal issues.
16. I agree with Kāinga Ora that effects on social wellbeing are relevant to achieving the purpose of the RMA and that provisions for social housing can be included in a district plan, as established in *Infinity Investment*

¹ See <https://chra.hud.govt.nz/about-chra/the-register/>

Group Holdings Ltd v Queenstown Lakes District Council (Infinity). I also agree that there must be evidence of a link between the effects of the use of land and associated objectives, policies and methods.

17. As I understand it, the matter at issue is that Kāinga Ora considers that there is no evidence of an effects-based link between the density performance standard and the proposed provisions for social housing.
18. In terms of the density performance standard, this is primarily used to manage cumulative adverse effects arising from residential activity, particularly effects on 3 waters infrastructure, but also effects on residential character and amenity (which are also managed through other rules). The proposed restricted discretionary exception for social housing can be applied in a limited way because it controls the extent to which cumulative adverse effects might arise, at the same time as recognising the additional positive effects of better providing for social housing over 'market-led' housing.
19. In summary, I disagree with Kāinga Ora's position for two key reasons:
 - There is evidence of an operational need for social housing providers to deliver more medium density social housing in a range of locations to meet demand and this cannot be wholly provided for through medium-density rezoning and other Variation 2 changes, primarily due to constraints on 3 waters infrastructure. In my opinion, targeting provision of more medium density social housing will provide positive effects on the social well-being of those who rely on access to social housing but are currently excluded due to a shortage of suitable social housing stock; and
 - These positive social wellbeing effects can be distinguished from those arising from meeting housing demand generally because they are likely to relate more directly to meeting the basic human need for shelter, rather than responding to other market forces operating in the housing sector. This is directly relevant to achieving Objective 2.6.1 (Housing Choices) in terms of providing for "the community's needs". The provisions also provide positive effects in terms of providing for medium density housing in a wider range of locations to meet residents' locational requirements (such as proximity to a particular school, workplace, or other family) and can assist in providing for ageing in place.
20. I will explore these matters in more detail below before responding to other concerns held by Kāinga Ora.

3.1 Need for medium density social housing

21. The social housing proposal (Change C1) was primarily initiated in response to an increase in resource consent applications being lodged by Kāinga Ora for medium density housing in the General Residential 1 zone. Medium density housing proposals outside of medium density zones (contravention of density performance standard) are non-complying activities.
22. Through communications with Kāinga Ora staff regarding the difficulties in obtaining these non-complying consents, the following matters became apparent (see the Section 32 Report for further details²):
 - There is unmet demand for smaller social housing units in Dunedin and this demand is geographically distributed;
 - For Kāinga Ora, this is most efficiently provided for through the redevelopment of older low-density social housing stock to a higher density. This provides a more efficient use of land where 3 waters infrastructure capacity is available; and
 - In Dunedin, the stock suitable for redevelopment is mostly located in the General Residential 1 zone where medium density housing is not provided for under the status quo.

² Page 53 onwards

3.2 Effects of increasing density broadly

23. The first step in providing for more medium density housing, including social housing, is to consider rezoning large areas of the city to medium density zones, such as to the General Residential 2 zone, where Policy 2.6.2.3 can be achieved.
24. Through Variation 2, this has been done in several areas, including some where there are clusters of housing owned by Kāinga Ora. However, more widespread identification and evaluation of areas for rezoning to medium density zones (areas that might otherwise meet the criteria for medium density housing) has been constrained by substantial limits on the capacity of the 3 waters infrastructure network at this time.
25. Similarly, broad changes to increase the density permitted in the General Residential 1 zone (and Township & Settlement zone where serviced for wastewater) have been proposed through Variation 2, but there has been a limit on how far these changes can go without causing serious issues for 3 waters infrastructure.
26. Options such as providing a restricted discretionary density pathway for all medium density housing in the standard density zones have also been considered but were rejected due to issues with managing cumulative adverse effects through consenting processes.
27. The changes that were included in Variation 2 to provide greater density of housing may well provide for the redevelopment of some social housing stock. However, based on the resource consent applications received to date, the changes are unlikely to provide for the type of development Kāinga Ora and other social housing providers may seek to undertake to meet demand without adopting the proposal for social housing (Change C1).

3.3 Positive effects of targeting increased density

28. In light of the difficulties of increasing density broadly to adequately provide for social housing, the Variation 2 proposal seeks to target access to increased density (and any freeboard in 3 waters infrastructure) to those providing housing to people most in need. I am of the view that this would provide significant positive social well-being effects for potential social housing residents compared to the status quo.
29. Overall, I consider that the benefits of providing for increased density are likely to be greatest for those who have the greatest need for housing, such as people awaiting additional social housing supply. I am of the view that this is relevant when assessing the effectiveness of the provisions in achieving the objectives of the Plan, and as they relate to the purpose of the RMA regarding social well-being. My view is that this distinction in terms of positive effects justifies the targeted approach.

3.4 Adverse effects of targeting increased density

30. I acknowledge Kāinga Ora's concerns regarding the stigma that some social housing residents may be subject to and I agree that it would be undesirable for planning provisions to be prejudicially misused to make it harder for social housing to establish than at present.
31. However, in my view, the extent to which identifying social housing as a type of standard residential activity in the Plan would change peoples' behaviour towards social housing residents is difficult to establish. I consider that this would be an unlikely cause for a change in behaviour towards social housing residents in and of itself because the vast majority of people are not aware of how the Plan provisions work. Therefore, I am of the view that people are unlikely to behave differently based on the structure of the planning provisions by which social housing is established.
32. I also have reservations about Kāinga Ora's assertion that provision for medium density social housing would be stigmatising to its occupants. I note that the General Residential 2 zone (and the higher density Inner City Residential zone) apply to large areas of the city and apply to all standard residential activities in these areas. This density of residential land use is by no means 'inferior' and is a suitable density for housing, and this density is often applied in areas of high relative demand for housing. I also note that all performance standards for the bulk and location of development would continue to apply, and the design of multi-unit development would be considered through the consent process to ensure good outcomes.

3.5 Other matters relevant to Kāinga Ora

33. As outlined in my verbal responses at the hearing, limits on the social housing provisions are required to manage the cumulative adverse effects that arise from the proposal. The identification of specific providers has been used for two key reasons. Firstly, because it avoids any developer claiming to be providing social housing and taking advantage of the provisions where the same positive benefits may not be realised and, secondly, because it ensures the provisions are lawful under the RMA and other legislation as it would not result in conditions being included in consents that identify certain 'types' or 'characteristics' of people.
34. I disagree with Kāinga Ora's assertions that distinguishing social housing would provide the potential for its exclusion from certain areas by plan change. Such an approach would be discriminatory, whereas measures taken in good faith for the purposes of assisting or advancing disadvantaged persons or groups do not constitute discrimination. Furthermore, it would be extremely difficult to justify such an approach as appropriate in terms of the Plan's objectives through a section 32 evaluation.
35. I consider it does remain desirable to retain Kāinga Ora within the provisions (as Dunedin's largest social housing provider and the one most likely to undertake substantial development) in anticipation that they utilise them.

4.0 Response to Other Submitters

4.1 Survey and Spatial NZ c/o Kurt Bowen and Mark Geddes

36. Survey and Spatial New Zealand (Coastal Otago Branch) sought expansion of the social housing provisions to encompass provision of affordable housing. No planning evidence or legal submissions were provided in support of this submission.
37. My recommendation regarding this and other like submissions remains largely unchanged as a result of the verbal presentation. This is primarily because I am of the view that cumulative adverse effects, particularly on 3 waters infrastructure, cannot be adequately managed through a restricted discretionary consent pathway if the social housing provisions are broadened to the extent sought.
38. I also consider that it would be difficult to draft provisions which set clear and certain parameters in terms of calculating the reduction in accommodation cost that must be achieved for the provisions to apply. Expert evidence would be required from an economist to support such an approach and this has not been sought or provided at this time.
39. However, I do recommend amending the social housing provisions to enable a maximum percentage of standard residential activity as part of a social housing proposal (as outlined in Section 5 below) and this would provide partial relief to the submitter. This is because a partnership could be established between a social housing provider and another developer and a portion of a social housing development could accommodate affordable housing up to the maximum percentage. The affordable housing requirements set out by the submitter could then be incorporated into a proposal by the applicant, rather than being stipulated in the Plan or consent conditions.

4.2 Dunedin City Baptist Church c/o Emma Peters

40. Dunedin City Baptist Church (DCBC) sought expansion of the social housing provisions to include non-registered community housing providers, and a performance standard requiring a minimum dwelling floor area. Planning evidence was provided by Ms Emma Peters on behalf of Dunedin City Baptist Church.
41. DCBC's interests appear to relate primarily to their property at 19 Main South Road, Concord, where they plan to undertake housing development. I note that their land has been proposed for residential rezoning as part of Variation 2 (Change GF08), partly to General Residential 1 zone and partly to General Residential 2 zone. If this proposal for rezoning is adopted, medium density housing could be developed on the General Residential 2 zone part of the land without relying on the proposed social housing provisions.

42. Ms Peters also discussed the potential for DCBC to become a registered community housing provider. In my view, from a planning perspective, becoming registered would be a preferable approach to expanding the application of the social housing provisions to 'not-for-profit' organisations. This is to ensure that cumulative effects are adequately managed by not expanding the provisions too widely.
43. I also note that the proposed social housing definition does provide for arrangements to be made with other organisations who do fall within the definition of social housing (e.g. Kāinga Ora), to enable access to the social housing density provisions.
44. One matter raised by Ms Peters in her verbal submission was of particular note. It regarded concern that social housing providers could undertake large-scale developments on greenfield land, entirely made up of social housing. I agree that there is nothing within the provisions as drafted that would prevent this situation from occurring, and avoidance of this scenario would rely on social housing providers choosing not to create this outcome.
45. In assessing the effects of the proposed social housing provisions, I have primarily considered their use in existing urban areas where currently developed sites would be redeveloped gradually over time, and this development would be distributed around the city amongst other housing. In my opinion, there is a need to consider amending the social housing provisions to account for the possibility of greenfield development, and I have outlined options for amendments in Section 5 below, including how there is scope to make such changes.
46. Overall, my recommendation regarding the request for expansion of the social housing provisions remains largely unchanged as a result of the evidence presented. However, I do recommend amendments to provide for a maximum percentage of standard residential activity as part of a social housing proposal (which may provide partial relief to the submitter), and amendments to manage use of the social housing density provisions in greenfield areas.
47. Regarding the request for minimum floor area provisions for social housing, I am still of the view that the providers listed in the proposed social housing provisions are likely to responsibly develop housing that is appropriate to residents' needs, including by not creating residential units that are unacceptably small. As such, I still recommend not adding performance standards for the design of social housing units.
48. I note that no minimum dwelling size provisions are included in the broader residential provisions, including in the medium density zones, or for ancillary residential units. Development of one-bedroom residential units with a gross floor area of 45m² or thereabouts is common in new developments in the General Residential 2 zone and these appear to be accepted by the market. Further evidence would be required to support addition of a performance standard for minimum floor area.

4.3 Ōtākou Health Limited c/o Nigel Bryce and Donna Matahaere-Atariki

49. Ōtākou Health Limited made an original submission to support in part the social housing proposal (Change C1) but considered the approach should be broadened to provide opportunities for Te Rūnanga o Ngāi Tahu (and its interests) to bring forward papakāika housing outside the native reserve mapped areas. The amendments that sought to achieve this related to the papakāika provisions, which are outside the scope of Variation 2 to amend and related submission points were struck out. Ōtākou Health Limited has since made further submissions in support of other submitters who sought a broadening of the social housing provisions by alternative means.
50. I note that some of the types of development that Ōtākou Health Limited seek to undertake, being shared equity schemes to assist homeownership, as outlined by Ms Donna Matahaere-Atariki in her statement, would not fall within the activities provided for as social housing, because they are not rental housing. Therefore, simply listing Te Rūnanga o Ngāi Tahu (and its interests) within the social housing definition would not enable them to undertake the range of activities they might seek to on General Residential 1 or Township & Settlement zoned land (where wastewater serviced).
51. As already outlined in this evidence, the limitation of the social housing provisions to rental housing ensures that the providers listed in the social housing definition cannot apply the social housing density exemption (restricted discretionary status) to all of their housing development activities (especially where such

organisations also undertake commercial housing development). Removing this limitation could substantially broaden the effect of the social housing provisions and result in unmanageable cumulative adverse effects.

52. I note that Ōtākou Health Limited have not expressly addressed whether it is possible or desirable for them, or another entity, to become a registered community housing provider to enable access to the social housing provisions (rather than seeking amendments to the provisions). It would be helpful to understand if that is an approach that could support some of their intended activities. However, I do note that they are considering partnerships with Kāinga Ora, which would be provided for under the proposed provisions.
53. Overall, I largely retain my recommendation to not expand the application of the social housing provisions to other providers to ensure that the cumulative effects of providing for medium density social housing can be effectively managed.
54. However, I do recommend amending the social housing provisions to enable a maximum percentage of standard residential activity as part of the proposal (as outlined in Section 5 below). Such amendments could enable shared equity housing to be undertaken as part of a social housing proposal up to a set limit, either in partnership with Kāinga Ora, or through Ōtākou Health Limited or another entity becoming registered as a community housing provider.

4.3.1 Overlap between papakāika and social housing provisions

55. A question was raised at the hearing regarding any overlap between the papakāika provisions and proposed social housing provisions.
56. I note that under the 2GP, papakāika only includes residential activity within the boundaries of an original native reserves mapped area where certain conditions as to the ownership of the land and occupation of the dwelling are met.
57. The native reserves mapped areas largely cover areas of rural zoned land, but there is some overlap with Township & Settlement zone that is serviced for wastewater at Waikouaiti and at the head of Otago Peninsula. At this stage, I have not had time to determine the extent to which this land would meet the ownership criteria for the papakāika provisions to apply.

5.0 Amendments to Consider

58. Overall, I recommend generally retaining the social housing provisions as notified, especially in terms of limiting it to the providers listed in the proposed definition and limiting it to rental housing. However, I consider that it is desirable to make the following amendments in response to issues submitters have raised, noting that I have not had time to provide drafting options for most of these changes at this stage.

5.1 Enable a maximum percentage of standard residential housing

59. In response to the submissions seeking broadening of the social housing provisions to apply to other providers, and instead of granting this relief, make amendments to enable (but not require) social housing proposals to be comprised of a maximum percentage of standard residential housing (to which the exemption to the density standard can also be applied).
60. This would have the benefit of encouraging integration of social housing with other housing (particularly for larger proposals) and improve outcomes in terms of social well-being and Objective 2.6.1 Housing choices. This would also enable greater flexibility in how the provisions are applied, including for when partnerships are established between providers listed in the definition of social housing, and other parties.
61. In the Section 42A Report I suggested considering allowing a maximum percentage of 30% standard residential activity. Other options for the maximum percentage could be considered, but the higher it is set the more difficult it may be to manage cumulative adverse effects on 3 waters infrastructure and the less social housing might result from the use of the provisions overall.

5.2 Manage use of provisions on greenfield land

62. In response to evidence from Ms Emma Peters on behalf of Dunedin City Baptist Church regarding concerns about the extent to which the provisions might be applied in large greenfield areas, and in light of the broadening of the provisions recommended above, add provisions to manage the extent to which the social housing density exemption (restricted discretionary status) can be used on greenfield General Residential 1 or Township & Settlement zoned land (where serviced for wastewater).
63. Such amendments would be to manage the potential for significant 3 waters infrastructure issues in any particular location (to ensure Objective 2.7.1 Efficient public infrastructure is achieved) and to encourage integration of social housing with other housing (to ensure Objective 2.6.1 Housing choices is achieved).
64. I am of the view that there is scope to make such a change under the broad request from Dunedin City Baptist Church to include performance standards to ensure that social housing “meets the desired level of design”. Furthermore, there is broad scope provided by submissions which oppose the social housing provisions, as the changes fall between the status quo and the provisions as notified.
65. Options to achieve this include:
- Adding an upper limit on the extent to which the social housing density exception can be applied in greenfield areas of the relevant zones. For example, limiting social housing activity to up to 30% of the total area within a new development mapped area (NDMA); or
 - Limiting the social housing density exception to only apply to the redevelopment of existing developed sites so it cannot apply on greenfield sites at all; or
 - Amending the assessment guidance for social housing consent applications to enable consideration of the extent to which medium density housing would occur ‘out of zone’ in any particular area (noting that this would be attempting to manage cumulative effects through a consent process, which has limitations in terms of effectiveness); or
 - Make no further changes to the proposal and rely on the assessment of effects on 3 waters infrastructure to identify when large-scale proposals should be declined (noting that this would be attempting to manage cumulative effects through a consent process, which has limitations in terms of effectiveness).

5.3 Other minor changes

66. I recommend amending the definition of social housing to make clear that letting can occur on behalf of any of the providers listed in the definition (by adjusting the use of punctuation - see below).
67. I also recommend amending the definition of social housing to note that social housing is a sub-activity of standard residential, which is standard wording for the definition of a sub-activity in the Plan (see below).
68. Amend the definition of ‘social housing’ as follows:

~~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.~~

Residential activity where premises are let by or on behalf of the DCC, Kāinga Ora-Homes and Communities, or a registered community housing provider, where in accordance with the Public and Community Housing Management Act 1992.

Social housing is a sub-activity of standard residential.