

**BEFORE INDEPENDANT HEARING COMMISSIONERS
APPOINTED BY THE TIMARU DISTRICT COUNCIL**

UNDER: the Resource Management Act 1991

IN THE MATTER OF: Submissions and further submissions in
relation to Timaru Proposed District
Plan

**STATEMENT OF EVIDENCE IN CHIEF OF MELISSA JANE MCMULLAN
ON BEHALF OF
MILWARD FINLAY LOBB (SUBMISSION POINT 60.47)**

Dated: 5 July 2024

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1. SUMMARY STATEMENT

- 1.1 Milward Finlay Lobb's (**MFL**) submission point 60.47 on the Proposed Timaru District Plan (**PDP**) sought to increase the site coverage as it applies to the Brookfield Road Specific Control Area overlay to 12.5%.
- 1.2 In response to the section 42A report by Andrew Maclellan, I have addressed the differences between the building footprint and site coverage requirements for the Brookfield Road site in the Operative District Plan (**ODP**), PDP and a global land use consent obtained under the ODP that create an inconsistency that would be best addressed by making a change to RLZ-S3 in the PDP.
- 1.3 I consider that this change is appropriate when the history of the site is taken into account and the currently applicable standards between the ODP and the global land use consent would exceed the PDP's proposed site coverage limit of 10%.

2. INTRODUCTION

- 2.1 My full name is Melissa Jane McMullan. I am a Planner at Milward Finlay Lobb Limited, a planning, surveying and engineering company, based in Timaru and residing in Fairlie. I have been a Planner at MFL for almost three years and am an intermediate member of the New Zealand Planning Institute.

Qualifications and experience

- 2.2 I hold a Bachelor of Laws and Bachelor of Arts in History from the University of Canterbury (2015) and a Master of Planning from Lincoln University (First Class Honours) (2019). I have nearly 5 years experience as a planner, including preparing and processing subdivision and land use consent applications, policy analysis and submissions.

Background

- 2.3 I have written a number of submissions on behalf of clients throughout the Timaru District on the PDP along with the submission on various matters we identified as a firm that would have an impact on our clients in the future (Submission No. 60).

- 2.4 I am familiar with the provisions of the PDP to which these proceedings relate. In preparing my evidence, I have reviewed the relevant parts of the section 32 Report and the section 42A Report.
- 2.5 I am authorised to provide this evidence on behalf of MFL.

Code of Conduct

- 1.4 I acknowledge the Hearing Panel's directions in Minute 6 (at [36]) and confirm that I have read the Code of Conduct for expert witnesses contained in the Environment Court Practice Note 2023. I further confirm that I have complied with the Code of Conduct in preparing my evidence and will do so when giving oral evidence or otherwise participating in this hearing.

3. SCOPE OF EVIDENCE

- 3.1 My evidence will address those matters that relate to the Brookfield Road Specific Control Area in the MFL submission on the PDP, i.e., Submission Point 60.47.
- 3.2 My evidence is structured as follows:
- (a) Background to the Brookfield subdivision and MFL's submission point;
 - (b) MFL's submission point;
 - (c) Section 42A Report and Recommendations; and
 - (d) Conclusions.

4. BACKGROUND

Brookfield subdivision

- 4.1 Brookfield Road Subdivision (**Subdivision**) was rezoned by way of a private plan change to the ODP. The rezoning, which has been operative since September 2015, provides for rural residential development of a 22.4ha site on Brookfield Road, to the west of Timaru. The rezone allowed for 35 allotments with a minimum allotment size of 5,000 square metres to be developed on the site.

- 4.2 The site has now been subdivided and records of title have been issued for 30 allotments with 26 of these allotments ranging from 5,000 to 5,700 square metres in area. There are also four larger lots which sit within the southern section of the zone which have areas ranging from 1.1ha to 1.79ha.
- 4.3 The Rural Residential (Brookfield Road) Lifestyle Zone (**BRLZ**) is one of two Lifestyle zones provided for in the ODP. The other Lifestyle Zone exists within the Geraldine Downs. Both of these zones were introduced to the ODP by way of Private Plan Change (Plan Change 20 and Plan Change 17 respectively). I note that Rural Living Sites could be created within the Rural 1 Zone of the ODP which are considered to be lifestyle blocks in nature with the ability to subdivide down to 1,000 square metres where certain criteria are met.
- 4.4 There are specific provisions that apply to the BRLZ listed within the ODP. The limit on the building footprint of a household unit (including attached garaging) is 350 square metres. These controls also allow for an accessory building with a maximum footprint of 80 square metres per allotment. The original standards proposed as part of Plan Change 20 were for 3,000 square metre sections with a maximum site coverage of 350 square metres (i.e. 11.7% of the site). I was not involved in the Plan Change process but it is my understanding that there was no expert assessment that dictated the final maximum site coverage and allotment sizes, the situation developed over the course of the process.

Global land use consent

- 4.5 A global land use consent (Council reference 102.2021.54.1) was granted on 28 April 2021 to allow the building footprint of a household unit (including garaging, but excluding decks and hard-surfacing) to have a maximum building area of 450 square metres. No increase was obtained for accessory buildings. It was noted in the Objectives and Policies Assessment provided in Council's section 42A report for that consent that the increase in size was considered to be consistent with the Objectives and Policies of the ODP, including in relation to maintaining rural character and amenity.
- 4.6 The 350 square metre dwelling size was noted as likely being a deterrent to future purchasers of the subdivision. The increase to 450 square metres was noted to increase the site coverage to 9% of a 5,000 square metre allotment, and as no change was made to the permitted size of an accessory building, this

means that the currently permitted site coverage between the global land use consent and the ODP provisions is 530 square metres, or at least 10.6% of a site, which is in excess of the currently proposed Standard RLZ-S3.

5. MFL SUBMISSION POINT

- 5.1 RLZ-S3 in the Proposed District Plan proposes to control site coverage in the Rural Lifestyle Zone by restricting development to the following:

The footprint of all buildings on the site shall not exceed 10% site coverage.

- 5.2 Through submission point 60.47, MFL seeks to increase the site coverage in the Rural Lifestyle Zone (Brookfield Road specific control area) to 12.5% of the net site area.
- 5.3 As noted by the director of the developer (Quarry Hills Development Ltd), Mr Chris McKnight, the 80 square metre limit on accessory buildings has been prohibitive to potential purchasers of the sections so a 10% site coverage rule (noting there is no distinction between how much should be allocated to different building types) is not considered to be favourable. Therefore, a 12.5% site coverage standard was requested through the District Plan Review process.
- 5.4 Currently purchasers of the Brookfield Road subdivision have been operating within the limits of the land use consent and zone provisions in the ODP. These have been noted to be prohibitive and the standard as proposed seeks to reduce this further.

6. SECTION 42A REPORT AND RECOMMENDATIONS

- 6.1 In his section 42A Report¹, Mr MacLennan recommends submission point 60.47 be rejected. The basis for his position is set out at [11.7.5] of his report and centres on the following two points:

¹ *Proposed Timaru District Plan Section 42A Report: Rural Zones; Report on submissions and further submissions; Author: Andrew MacLennan; Dated 19 June 2024.*

- (a) It would be inefficient to have countless site-specific standards aligning with the requirements of a specific resource consent decisions included within the PDP.
- (b) Existing consents granted under an operative district plan, prior to the notification of the PDP, will prevail regardless of whether the proposed district plan is more stringent or lenient. In the alternative, existing use rights would apply for land use lawfully established before the PDP was notified.

6.2 With respect to the first point, I do not accept Mr MacLennan's view that it would be inefficient to have numerous site specific standards apply. The site was provided with a Specific Control Area overlay for a reason and the Council elected to bring over two of the standards that apply under the ODP (namely RLZ-S1(2) – building height; and RLZ-S7 exterior building materials). There are numerous other standards within the ODP that apply to the zone that have not been brought into the PDP, and the Plan Change 20 process exhaustively addressed these matters.

6.3 To date Timaru District Council (**Council**) have not explained why these provisions have not been carried over, with the following standards currently being inconsistent between the ODP and PDP: setbacks from boundaries (10 metres from all site boundaries under the ODP, 8 metres is required in the PDP) and residential density (total number of household units shall not exceed one dwelling per 5000 square metres under the ODP, a residential unit and minor residential unit are permitted in the PDP). The inconsistencies between the ODP, global land use consent in relation to building coverage and the PDP provide an area of difficulty where it would be prudent to have better alignment that errs on the side of not frustrating the global land use consent.

6.4 With respect to the second point, I agree with Mr MacLennan that the land use consent will prevail over any changes to the rules made through the District Plan Review process, however the land use consent does not allow for larger accessory buildings and I do not believe this will be able to be overcome through the currently proposed wording of RLZ-S3. The inconsistency between the wording of the global land use consent and the proposed wording of the standard is something that could easily be misconstrued unless someone with knowledge of the consenting history of the site is involved in the development

process, particularly with this not being a flag on the Record of Title through the imposition of a Consent Notice.

- 6.5 It is noted that the proposed 12.5% site coverage will see 625 square metres of the site able to be developed through buildings (based on a 5000 square metre allotment), an increase of 125 square metres which is currently supported by the feedback received from potential purchasers of the subdivision as being favourable.
- 6.6 An increase of 2.5% site coverage is minimal, particularly when this is a zone that is limited in scope (noting a submission has been made to extend the zoning slightly, to be dealt with in Hearing E). There will still be specific height limits and external colour restrictions that will apply to the Brookfield Road Specific Control Area and setback and other landscaping provisions that will need to be met. These are intended to screen the development. It is noted that significant landscape assessment was carried out as part of Plan Change 20 and the provisions largely reflect these.
- 6.7 I consider the proposed 2.5% increase is acceptable when the combination of large sites, generous setbacks, height limits and coordinated planting of trees along the frontage of lots will limit the visual impact of buildings within the area and receiving environment. The size of the allotments also extends to encouraging significant landscaping to be carried out over the course of time, as there is little other productive land use that can be obtained from 5,000 square metres.
- 6.8 The proposed increase will be consistent with the Objectives and Policies of the Rural Lifestyle Zone, in particular RLZ-O2 – The Character and Qualities of the Rural Lifestyle Zone and RLZ-P3 – Character and Qualities as it will still provide for openness and amenity that is expected in the Rural Lifestyle Zone and there will be plentiful space for landscaping to further improve this amenity.
- 6.9 Furthermore, as explained by Mr McKnight in his evidence, there is clear market guidance that there is a need for additional space to be provided for larger accessory buildings within the Lifestyle Zone. Changing the Zone provisions is considered to be a clearer way of doing this than managing different expectations between a global land use consent and zone provisions.

7. CONCLUSION

- 6.1 The submission point seeks to increase the site coverage as it applies to the Brookfield Road Specific Control Area to better reflect the Plan Change and Consenting process for the site and manage the inconsistencies that will be created by the PDP with the global land use consent, while also factoring in the market feedback that has been obtained by the developer.
- 6.2 The increase of site coverage will still be in accordance with the Objectives and Policies of the PDP and I consider it to be consistent with section 32 of the Resource Management Act 1991.

Melissa Jane McMullan

5 July 2024