

17<sup>th</sup> December 2024

City Planning  
Dunedin City Council  
PO Box 5045  
Dunedin

## SUBMISSION ON PLAN CHANGE 1

This is a submission on Plan Change 1 to the Partially Operative Dunedin City Second Generation District Plan (2GP). This submission has been prepared by Patersons, on behalf of the Submitter named in the information below.

### Submitter details:

Name of Submitter:	Kevin and Deborah van de Water
Organisation:	Not applicable
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It is advised that the Submitter will not gain an advantage in trade competition through this submission.

### Submission (multiple submission table):

PC1 ID:	Z2 Res13
Provision Name:	Planning Maps and Residential Zone Provisions Rule 10.3.3.W Rule 10.3.3.X (And all other provisions connected to the above Rules, as listed in the PC1 Summary of Changes document, including the information shown on the Planning Maps).
This submission seeks:	Accept change (in part). Reject change (in part). If the change is not rejected, amend as outlined below.
Reasons:	The first part of this submission relates to the proposed rezoning of part of the properties at 10 Vandes Way, Concord, and 16 Emerson Street, Concord. The Submitter is the owner of 10 Vandes Way, Concord. The Submitter wishes to submit in support of the change proposed by Z2. This is seen as an appropriate tidy-up of an existing anomaly

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in the 2GP. Having the proposed residual property areas rezoned into a residential format, to match the zoning that applies to the majority of the land in these properties, with all other relevant provisions updated to recognise this, is a positive change.

This second part of the submission relates to the proposed setbacks from open watercourses.

Existing Rule 10.3.3.X requires-

*“...new buildings and structures, additions and alterations, earthworks - large scale, storage and use of hazardous substances, and network utility activities must be set back a minimum of 5m from a stormwater open watercourse mapped area.”*

Proposed Rule 10.3.3.W requires-

*“...new buildings and structures, additions and alterations, earthworks - large scale, storage and use of hazardous substances, and network utility activities must be set back a minimum of 20m from a stormwater open watercourse mapped area in the rural zones.”*

Proposed Rule 10.3.3.X requires-

*“...new buildings and structures, additions and alterations, earthworks - large scale, storage and use of hazardous substances, and network utility activities must be set back a minimum of 5m from a stormwater open watercourse mapped area in all other zones.”*

Additionally, this proposed change seeks to amend the Planning Maps so that these include numerous open watercourse mapped area features.

The Submitter seeks the following adjustments to these provisions. First, the Submitter requests that the setback distances imposed by these rules are reduced-

- In Rule 10.3.3.W, from 20.0m to 7.0m, and
- In Rule 10.3.3.X, from 5.0m to 2.5m.

The suggested reduced distances are considered sufficient to achieve suitable protection from high water flows and to protect the water conveyance function of the watercourse feature, along with enabling any necessary maintenance works to be carried out.

The reduced 7.0m width in the Rural Zones is consistent with the setback standards that Otago Regional Council apply to their drainage channel network. This demonstrates that 7.0m is sufficient for protection and maintenance purposes.

The reduced 2.5m width in other zones is consistent with the 3-Waters approach to setbacks from piped drainage infrastructure, which typically required an easement to be created at 1.5m on each side of the pipe and then a further 1.0m setback from the edge of the easement to any new structures. This 2.5m setback distance is deemed sufficient to enable the maintenance of drainage pipe infrastructure, and the Submitter suggests that this is reasonable for this same setback distance to be applied to the new rules.

Second, the Submitter has concerns around the definition of where the setback distances are to be measured from. Currently, the rules suggest that the setback is to be measured from the mapped area itself, implying that the mapped feature is the starting point for measuring the setback. I highly doubt that the feature mapping that has been used to populate the Planning Maps is particularly accurate, and this could lead to the required setback distances ending up being quite different to the actual distance between the determined setback line and the watercourse feature as it sits on the ground. To resolve this, the rules should be updated to include a reference to where the setback distance is measured from. The easiest way to do this would be to tweak Rule 10.3.3.7 which provides a starting point for measuring setback from water bodies, so that this rule can also be applied to open watercourse mapped areas. The headings for Figure 10.3.3A and Figure 10.3.3B should also be adjusted to include open watercourse mapped areas. The amended Rule 10.3.3.7 might then read (my amendment underlined)-

*“For the purposes of this standard, setbacks will be measured from the bank of the water body or open watercourse mapped area at the point of its annual fullest flow or annual highest level without overtopping its bank (see Figure 10.3.3A and Figure 10.3.3B).”*

Third, the Submitter seeks the inclusion of the following exemptions from the new open watercourse mapped area provisions-

1. Where open watercourse features exist close to a property boundary, they should not apply to the adjoining property. I.e. an exemption should be made for the adjoining property, so that the adjoining property owner is not adversely affected by the setback provisions. For example, if a watercourse feature was constructed within say 1.0m of a property boundary, the new setback should extend over the 1.0m distance between the feature and the boundary but should cease at the boundary.
2. An exemption should be made for properties that are subject to recently consented and/or approved developments, and where anticipated land use activities have not yet been fully implemented. For instance, where a stormwater detention swale has, or will be, constructed but houses are yet to be established. In various instances, there are already protective measures in place to manage open watercourses, such as easements, covenants and consent notices, which already serve to address the outcomes sought by the proposed rule changes. Without this exemption there is a risk that approved development may be unreasonably compromised before it can be completed.

Regarding point 2 above, the Submitter presently owns a number of properties at 9, 10 and 11 Vandes Way, Concord, and has recently sold the property at 16 Emerson Street, Concord, which are all

directly impacted by the proposed provisions. These sites have been recently subdivided (titles issued 28 June 2023), and new houses are yet to be constructed on at least one of these sites. These sites include an open stormwater drain, which has been classified as an open stormwater mapped area in the PC1 Planning Map changes. The sites are modest in size, and the imposition of the proposed 5.0m setback for development on these properties is significant. The stormwater drain system is protected by easements in favour of Dunedin City Council. The Submitter seeks these properties to be exempted from the proposed open stormwater mapped area provisions and seeks for the feature to be removed from the Planning Maps.

In particular, the Submitter holds the following concerns over the proposed Res13 changes-

- It would be unfair to implement these provisions in instances where the infrastructure design has already been completed, and where landowners have had no opportunity to consider these provisions as part of layout/decision making process for the subdivision.
- These setback provisions are likely to devalue the sites even more than the presence of the swale does.
- Any new restrictive setbacks on these sites will limit the build options that are already restricted by the presence of the swale.
- There is already an easement in place to protect this infrastructure. This easement was required by DCC and its design approved by DCC.

Lastly, the Submitter seeks the removal of all open watercourse mapped area features from the Planning Maps where these features relate to large properties of undeveloped land in the residential zones. Potentially any block larger than 1.0 hectares could be seen in this light. The reason for this is that these blocks of land, of which there might be a relatively small number, will almost certainly all be subject to comprehensive future resource consenting processes, at the time that owners seek to pursue development. In many cases, these properties are also subject to New Development Mapped Area (NDMA) provisions. These existing provisions will provide sufficient methods and opportunities for Council and landowners to collectively consider the most appropriate means of managing and protecting any open watercourse features. Such management might often include activities such as replacing open watercourses with piped drainage systems and/or relocating open watercourse to more convenient alignments. These activities are more easily managed through the resource consent pathway than by imposing the proposed open watercourse mapped area features, which then may need to be unpacked from the property at a later date. This would also avoid the need for the Planning Maps to be updated as changes are made to the watercourse features.

The Submitter wishes to speak in support of this submission at a hearing. If others make a similar submission, the Submitter will consider presenting a joint case at a hearing.

I trust that the above submission is helpful. We look forward to hearing from Dunedin City Council in due course.

Yours faithfully

**PATERSONS**



**Kurt Bowen**

Registered Professional Surveyor

17/12/2024