



**SECOND
GENERATION
DISTRICT PLAN**

Variation 2 – Additional Housing Capacity

Second Decision Report:

Greenfields Rezoning Sites

Decision of the Variation 2 Hearing Panel:

Commissioner Gary Rae – Chairperson

Commissioner Jim O'Malley

Commissioner Steve Walker

8 February 2023

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LIST OF ABBREVIATIONS

2GP	Second Generation Dunedin City District Plan
Act	Resource Management Act 1991
ASBV	Area of Significant Biodiversity Value
DCC	Dunedin City Council
EV	Electric Vehicle
FDS	Future Development Strategy
GR1	General Residential 1 Zone
GR2	General Residential 2 Zone
HPL	Highly Productive Land
LDR	Low Density Residential Zone
LLR	Large Lot Residential Zone
MfE	Ministry for the Environment
NDMA	New Development Mapped Area
NES	National Environmental Standard
NPS	National Policy Statement
NPS-HPL	National Policy Statement on Highly Productive Land
NPS-UD	National Policy Statement on Urban Development 2020
ONL	Outstanding Natural Landscape
ORC	Otago Regional Council
Plan	Second Generation Dunedin City District Plan
RMA	Resource Management Act 1991
RTZ	Residential Transition Overlay Zone
SNL	Significant Natural Landscape
The Panel	Variation 2 Hearing Panel
The Spatial Plan	Dunedin Towards 2050: A Spatial Plan for Dunedin
UBMA	Urban Biodiversity Mapped Area

1 INTRODUCTION

1. This decision report for Hearing 4 contains the second and final set of decisions on submissions on Variation 2 (Additional Housing Capacity) to the Dunedin City Second Generation District Plan (2GP). It addresses our decisions on submissions on the proposed rezonings for Variation 2 that were classified as greenfield residential rezonings (which include some areas that have operative residential transition overlays applied). It also addresses submissions on rejected greenfield residential rezoning options that were outlined in the section 32 report and therefore considered by us to be within the scope of the variation.
2. We, the Variation 2 Hearing Panel ('the Panel'), have been appointed by the Dunedin City Council (DCC) under s34A of the RMA to make decisions on all procedural and jurisdictional matters, and to consider and make decisions on submissions in relation to Variation 2 to the 2GP. The Panel is comprised of:
 - Commissioner Gary Rae, as Chairperson
 - Councillor Jim O'Malley, in his capacity as Commissioner
 - Councillor Steve Walker, in his capacity as Commissioner
3. Below we provide some background on the Variation 2 process to date and the approach we have taken in this decision report for Hearing 4. Our decisions on the greenfield rezoning topic then follow, and are covered in the following order:
 - Section 2.1 covers broad matters raised in relation to the matters covered in this decision. While these matters do not require a formal decision, we discuss several over-arching issues that have broad relevance to our decisions. Our conclusions on these matters provide context to the decisions outlined later with respect to submissions concerning specific sites.
 - Section 2.2 covers our decisions on broad submissions received in relation to the greenfield residential rezonings under consideration. These are grouped on a topic basis, as per the section 42A report.
 - Section 2.3 covers our decisions on individual sites. These are organised by geographic area, rather than grouped into sites notified as part of Variation 2, and sites that were sought to be rezoned through submissions. We have taken this approach as in several cases issues between proposed and rejected sites overlapped due to the proximity of the particular sites.
 - Section 3 covers our conclusions on questions of how the National Policy Statement on Highly Productive Land (NPS-HPL), which was released during the course of our deliberations, should be applied and how it influenced our decisions or reasons for decisions.

1.1 Variation 2 process to date

4. In February 2021, the DCC notified Variation 2 – Additional Housing Capacity to the Dunedin City Second Generation District Plan (2GP).
5. A variation is a set of proposed amendments to a proposed plan before it is made fully operative. Under Clause 16A of Schedule 1 of the RMA 1991 a local authority may initiate

variations to provisions in a proposed plan at any time before the approval of the plan. Variation 2 is the second variation to the 2GP.

6. Variation 2 proposed a discrete set of changes to 2GP provisions and zoning to respond to a projected shortfall in housing development capacity for the next 10 years, and to resolve implementation issues with some residential and 3 waters infrastructure provisions. Variation 2 was developed in the context of the National Policy Statement on Urban Development 2020 (NPS-UD) and some of the changes will assist in giving effect to its requirements to provide sufficient housing development capacity.
7. Further information about the background to Variation 2 can be found in the Section 32 Report, available from the DCC.
8. The changes proposed as part of Variation 2 were broadly divided into four topic groups and the DCC decided to undertake separate hearings for each group, being:
 - Hearing 1 - provisions (excluding 3 waters provisions), held on 13-14 September 2021;
 - Hearing 2 - intensification rezoning, held on 3-4 November 2021;
 - Hearing 3 - 3 waters provisions, held on 8-9 December 2021; and
 - Hearing 4 - greenfield rezoning, held on 15, 17, 18, 19, 22, 23, 24, 25 August, 2, 5, 6, 13 September, then reconvened on 21 October and 1 December 2022.
9. Following the initial Hearing 4 held in August/September 2022, we reconvened on two occasions (in October and December 2022) to address firstly legal submissions on the NPS-HPL, and then evidence on particular sites affected by the NPS-HPL.
10. We received a comprehensive section 42A report from the reporting officer/s for each hearing which were informed by reports from specialist staff, complemented by end-of-hearing reply reports. Each section 42A report summarised the submission points and recommended to the Panel whether changes should be made in response.
11. We also received evidence and legal submissions from submitters ahead of each hearing in accordance with procedural directions that we issued.
12. During the hearings, submitters tabled statements and gave verbal presentations. We endeavoured to conduct the hearings with a minimum of formality to provide for all submitters to feel comfortable in addressing their submission and providing their opinions.
13. Further information about the evidence we received and appearances at Hearing 4 are provided in Section 1.2 of this report.
14. The substantive part of Hearing 4 was held in-person, and was also livestreamed on the DCC's YouTube channel. Submitters and experts were able to attend both in person and via Zoom. The first reconvened session was not held in person but was livestreamed, and the second reconvened hearing was held in person and was able to be observed via Zoom.
15. Following the completion of the public hearing, we deliberated on the matters raised in the submissions, made decisions on them, and prepared this decision report.

1.2 Evidence considered

16. The Panel's decisions in this report have been made after having considered the evidence from Hearing 4 (outlined below).
17. Table 1 below summarises all who appeared or tabled evidence at the hearing. This evidence was considered in addition to reading all the relevant submissions.

Table 1 - Submitters who presented at Hearing 4

Submission Number	Submitter	Represented by / experts called	Topic
FS231	Stewart Campbell (Campbell Family Trust)	Kurt Bowen (Paterson Pitts) Neil Johnstone (Flooding Matters)	GF03 16 Hare Road and 7 Kayforce Road, Ocean View
S294	Paul and Michelle Barron	Kurt Bowen (Paterson Pitts)	GF05 and GF05a Parts 353 Main South Road, Sunnyvale, Fairfield
S279	Victor and Fiona Nicholson	Kurt Bowen (Paterson Pitts)	RS169 41 Emerson St Concord
S284	Bob Mathieson	Kurt Bowen (Paterson Pitts)	GF07 33 Emerson Street
S263	GTJM Property Limited (Joe Morrison and Gill Thomson)	Joe Morrison Bridget Irving (Galloway Cook Allan) Grace Ryan (GHD) James Molloy (Terra MDC Ltd) Darryl Sycamore (Planner, Terramark)	GF14 336 and 336A Portobello Road, The Cove
S41 / S53	Steve Shaw and Tania Brady	-	GF14 336 and 336A Portobello Road, The Cove
S72	Darren Watts	-	GF14 336 and 336A Portobello Road, The Cove
S165	Susan Davies	Tim Ponting	GF14

Submission Number	Submitter	Represented by / experts called	Topic
			336 and 336A Portobello Road, The Cove
S180	Susan Walker	-	GF14 336 and 336A Portobello Road, The Cove
FS18	Anita Chan and Neil Harraway (Monarch Wildlife Ltd)	-	GF14 336 and 336A Portobello Road, The Cove
FS52	Claire Carey	-	RS205 761 Aramoana Rd
S118	Mr Robert Reid (Trustee of Bloomfield Trust)	-	GF02 201, 207, 211 Gladstone Rd South, East Taieri
S223	Ed Stewardson	Emma Peters (Sweep Consultancy)	GF02 201, 207, 211 Gladstone Rd South, East Taieri
S311	Alice Wouters, Keep Halfway Bush Semi-rural	-	GF09 41-19 Three Mile Hill Rd, Halfway Bush
S197	Valerie Dempster, Keep Halfway Bush Semi Rural	-	GF09 41-19 Three Mile Hill Rd, Halfway Bush
S239	Dunedin City Baptist Church	Brendon Shanks (noise expert) Emma Peters (Sweep Consultancy) Cameron Grindlay (Chair, DCBC Board)	GF08 19 Main South Rd, Concord
S229	Ron and Sue Balchin	Emma Peters (Sweep Consultancy) Mark Walrond (Geosolve)	GF05 and GF05a 353 Main South Rd, Fairfield
FS198	Port Otago	Len Anderson (Legal Counsel)	RS171 3 Brick Hill Rd, 18 Noyna Rd, Sawyers Bay

Submission Number	Submitter	Represented by / experts called	Topic
		Rebecca McGrouther (Environmental Manager Port Otago) Mary McCallaghan (GHD) Darryl Sycamore (Planner, Terramark)	
S304	Craig and Kirsten Duncan (Duncan Clan Family Trust)	Barry Armour Craig Duncan Kurt Bowen (Paterson Pitts)	RS157 90 Blackhead Rd and surrounds
S202	K and L Accommodation Limited	Darryl Sycamore (Planner, Terramark)	RS171 3 Brick Hill Road and 18 Noyna Road, Sawyers Bay
FS123	John Kidston (on behalf of Kidston Family Trust)	Darryl Sycamore (Planner Terramark) Ben Kidston John Kidston	GF11 Polwarth Rd and Wakari Rd, Helensburgh
S241	Grant Motion	Emma Peters (Sweep Consultancy) Grant Motion	GF11 Polwarth Rd and Wakari Rd, Helensburgh
S221	Brent Hastie	-	GF11 Polwarth Rd and Wakari Rd, Helensburgh
S297	Harry Harding	Kurt Bowen (Paterson Pitts) Harry Harding	GF12 233 Signal Hill Rd, Upper Junction
S227	Bob and Rose Cunningham	Bob Cunningham Kurt Bowen (Paterson Pitts)	RS161 210 Signal Hill Rd
S11	Anthony Fitchett	-	RTZ2 87 Selwyn St
S276	Christopher and Allison Stewart	Ms Sally Stewart	RS165 750 Highcliff Rd
S273	Mark and Jacqui Taylor	Mark Taylor Kurt Bowen (Paterson Pitts)	RS109 119 Riccarton Rd West
S71	Andrew Rutherford		RS170

Submission Number	Submitter	Represented by / experts called	Topic
		-	103, 105, 107 Hall Rd, Sawyers Bay
S77	Peter and Marja van Loon	Peter and Marja van Loon Kurt Bowen (Paterson Pitts)	RS176 234/290 Malvern St, Leith Valley
S249	Ross McCleary, COF LTD, Scroggs Hill Farm	Ross McCleary Emma Peters (Sweep Consultancy) Hugh Forsyth (landscape architect)	GF01, RS160, RS220 Scroggs Hill Rd, Brighton
S191	Roger and Janine Southby	Roger Southby Emma Peters (Sweep Consultancy) Scott Cookson (surveyor) Russell Lundy (real estate agent) Tim Heath (Property Economics)	RS212 170 Riccarton Rd West
S237	David Middleton	Emma Peters (Sweep Consultancy) Hugh Forsyth (landscape architect)	RS151 147 St Leonards Drive
S242	DDS Properties Ltd	Paul Rogers (Director DDS Properties) Emma Peters (Sweep Consultancy) Hugh Forsyth (landscape architect) Paul Thompson (real estate agent) Mark Walrond (Geosolve)	RS195 Part 774 Allanton – Waiholā Rd
S232	Meats of New Zealand Ltd	Emma Peters, Sweep Consultancy	RS200 489 East Taieri Allanton Rd, Allanton
FS257	Chris Medicott	-	RTZ1 30 Mercer St Kenmore
S36	Lex Anderson	Denise Grey	RS205

Submission Number	Submitter	Represented by / experts called	Topic
		Alan Cubitt (Planner)	761 Aramoana Rd
FS247	Tracey Fleet	-	RS205 761 Aramoana Rd
S247	Cole Bennetts	Cole Bennetts Emma Peters (Sweep Consultancy) Hugh Forsyth (landscape architect) Mark Walrond (Geosolve) Scott Cookson (surveyor)	RS110 23 Sretlaw Pl, Brockville
FS19	Ann Venables	Justin Venables	RS110 23 Sretlaw Pl, Brockville
FS69	David and Sarah Shearer	David Shearer	RS110 23 Sretlaw Pl, Brockville
FS103	Helen and Myles Thayer	Myles Thayer	RS110 23 Sretlaw Pl, Brockville
FS256	Lesley Proctor	-	RS170 103, 105 and 107 Hall Rd, Sawyers Bay
S308, S307, S305	CC Otago Limited, Peter Doherty, Outram Developments Limited	Peter Dougherty Emma Peters (Sweep Consultancy) Craig Horne (surveyor) Mike Moore (registered architect) Craig Bates (real estate agent) Derek McLachlan (legal) Andrew Carr (transport) Philip Osbourne (Property Economics) Tim O'Sullivan	RS175, RS154 85 Formby St and 103 Formby St, Outram
FS248	Trevor Braid (Willowbank Family Trust, Willowfield Developments)	-	RS175 and S154 Formby St, Outram
FS157	Margaret Henry	-	RS175 and S154

Submission Number	Submitter	Represented by / experts called	Topic
			Formby St, Outram
FS50	Christopher Girling	-	RS175 and S154 Formby St, Outram
FS81	Donald and Susan Broad	Susan Broad	RS175 and S154 Formby St, Outram
S123	Fletcher Glass	Phil Page (legal counsel) Conrad Anderson (Planner) Kurt Bowen (Paterson Pitts) Tony Milne (landscape architect)	RS206, RS206a, RS77 35, 37, 43 Watt Rd, Part 309 North Rd
FS96	Gordon Hunt	-	RS153, RS204 Chain Hills area
FS36	Bronwyn Hughes	-	RS153, RS204 Chain Hills area
FS122	John Franklin	-	RS153, RS204 Chain Hills area
FS105	Holly and Gareth Shanks	Holly Shanks	RS153, RS204 Chain Hills area
FS186	Pam and Neville Jemmett	-	RS153, RS204 Chain Hills area
FS120	Jim Cotter	-	RS153, RS204 Chain Hills area
FS76	Debra Gale	-	RS153, RS204 Chain Hills area
S219	Gladstone Family Trust	Rennie Logan (Gladstone Family Trust) Phil Paige (legal counsel) Emma Peters (Sweep Consultancy) Mike Moore (landscape architect) Melanie Stevenson (Fluent) Grant Fisher (Transport)	RS153, RS204 Chain Hills area

Submission Number	Submitter	Represented by / experts called	Topic
FS229	Steve Ross (Nash and Ross Ltd)	Kurt Bowen	RS14 Freeman Cl and Lambert St, Abbotsford
FS116	Jennifer Robinson	-	RS14 Freeman Cl and Lambert St, Abbotsford
FS207	Bailey Family Trust	Roger Bailey	RS14 Freeman Cl and Lambert St, Abbotsford
FS124	John Rawling (Wydle Willow Garden)	-	RS14 Freeman Cl and Lambert St, Abbotsford
FS76	Debra Gale	-	RS153 and RS204 Chain Hills area
FS94	Gerald Finn	-	RS14 Freeman Cl and Lambert St, Abbotsford
FS84	Elizabeth Lukeman		RS14 Freeman Cl and Lambert St, Abbotsford
S225	Neil Brown	-	GF11 Polworth Rd and Wakari Rd, Helensburgh
S228	Wendy Campbell	Emma Peters (Sweep Consultancy) Gerard Hyland and Brent Irving (Tunnel Trials Trust)	RS14 Freeman Cl and Lambert St, Abbotsford
S298	Bill Hamilton	Kurt Bowen (Paterson Pitts)	RS14 Freeman Cl and Lambert St, Abbotsford
S302	Alan David and David Eric Geeves & Nicola Jane Algie	Kurt Bowen (Paterson Pitts)	RS14 Freeman Cl and Lambert St, Abbotsford
FS242	Tim Lequeux, Sorrel O'Connell Milne and Danielle Nicolson	Kurt Bowen (Paterson Pitts) Danielle Nicolson	RS193 177 Tomahawk Rd

Submission Number	Submitter	Represented by / experts called	Topic
		Sorrel O'Connell Milne	

18. Appearances for the Dunedin City Council were:

- Mr Bede Morrissey, Planner;
- Ms Emma Christmas, Team Leader Planning;
- Mr Nathan Stocker, Team Leader Research and Monitoring;
- Mr Michael Garbett, DCC legal counsel (Anderson Lloyd);
- Mr Luke McKinlay, Landscape Architect;
- Mr Jared Oliver, Engineering Services Team Leader;
- Mr Bruce Saunders, Strategic Planning Engineer;
- Mr Lee Paterson, Stantec New Zealand;
- Mr Trevor Watson, Contractor DCC Transport;
- Mr Antoni Facey, Avanzar Consulting;
- Mr Lee Paterson, Stantec New Zealand; and
- Dr Jean-Luc Payan, Manager Natural Hazards Otago Regional Council.

19. Council evidence, legal submissions, submitter evidence, statements tabled at the hearing and right of reply documents for Hearing 1 (as outlined below) can be found on the Variation 2 webpage ([Plan change - DIS-2021-1 \(Variation 2\) - Dunedin City Council](#)).

20. Council evidence:

- Part 3 – Sites Proposed for Rezoning section 42A report authored by the reporting officer, Mr Bede Morrissey, which included expert evidence for the DCC provided by:
 - Kevin Lloyd, Senior Principal Ecologist, Wildlands;
 - Lee Paterson, Senior Geotechnical Engineer, Stantec New Zealand;
 - Luke McKinlay, DCC Urban Designer;
 - Trevor Watson, Contractor, DCC Transport team;
 - Bruce Saunders, Strategic Planning Engineer, DCC 3 Waters;
 - Jared Oliver, Engineering Services Team Leader, DCC 3 Waters;
 - John Brenkley, Planning and Partnerships Manager, DCC Parks and Recreation Services; and
 - Nathan Stocker, DCC Research and Monitoring Team Leader.
- Reporting Officer's Opening statement.

21. DCC legal submissions:

- Legal submission on behalf of DCC relating to NDMA overlay;
- Legal submission on behalf of DCC in Reply.

1.2.1.1 Evidence, legal submissions and statements tabled at the hearing by site

22. GF01 – Parts 155 Scroggs Hill Road, Brighton:
 - Planning evidence from Emma Peters on behalf of Ross McLeary, COF Limited & Scroggs Hill Farm; and
 - Response to information requested by the Panel. Emma Peters on behalf of Ross McLeary, COF Limited & Scroggs Hill Farm.
23. GF02 and GF02a – 201, 207 and 211 Gladstone Road South, East Taieri:
 - Planning evidence from Emma Peters on behalf of Ed Stewardson.
24. GF03 – 16 Hare Road and 7 Kayforce Road, Ocean View:
 - Planning evidence from Kurt Bowen on behalf of Stewart Campbell;
 - Evidence of flood hazards from NP Johnstone on behalf of Stewart Campbell; and
 - Statement from Stewart Campbell on flood hazard on the site.
25. GF04 – 127a Main South Road Sunnyvale, Fairfield:
 - Planning evidence from Conrad Anderson on behalf of Jose Corporation Ltd;
 - Stage 1 and 2 Plan on behalf of Jose Corporation Ltd; and
 - Resource Consent granted for Stage 1 on behalf of Jose Corporation Ltd.
26. GF05 and GF05a – Parts 353 Main South Road Sunnyvale, Fairfield:
 - Planning evidence from Emma Peters on behalf of Ron and Suzanne Balchin; and
 - Geotechnical evidence from Mark Walrond on behalf of Ron and Suzanne Balchin.
27. GF07 – 33 Emerson St, Concord:
 - Planning evidence from Kurt Bowen on behalf of Robert Mathieson; and
 - Site photos on behalf of Robert Mathieson.
28. GF08 – 19 Main South Road, Concord:
 - Planning evidence from Emma Peters on behalf of Dunedin City Baptist Church;
 - Acoustic evidence from Brendon Shanks on behalf of Dunedin City Baptist Church;
 - Amended acoustic structure plan on behalf of Dunedin City Baptist Church;
 - Amended noise assessment report on behalf of Dunedin City Baptist Church; and
 - Draft noise structure plan performance standard on behalf of Dunedin City Baptist Church.

29. GF11 and GF11a – Polworth Road and Wakari Road, Helensburgh
- Planning evidence from Darryl Sycamore on behalf of JSK Paddocks Limited (John Kidston);
 - Proposed 61 lot subdivision plan on behalf of JSK Paddocks Limited (John Kidston);
 - Proposed entrance layout on behalf of JSK Paddocks Limited (John Kidston);
 - Planning evidence from Emma Peters on behalf of Grant Motion;
 - Tabled statement from the Kidston family on behalf of JSK Paddocks Limited (John Kidston);
 - Tabled statement from Ben Kidston on behalf of JSK Paddocks Limited (John Kidston);
 - Tabled statement from Neil and Linda Brown; and
 - Additional tabled statement from Neil and Linda Brown.
30. GF12 – 233 Signal Hill Road, Upper Junction
- Planning evidence from Kurt Bowen on behalf of Harry Harding; and
 - Signal Hill Road upgrade plan on behalf of Harry Harding.
31. GF14 – 336 & 336A Portobello Road, The Cove
- Planning evidence from Darryl Sycamore on behalf of GTJM Property Limited;
 - Transport evidence from Grace Ryan on behalf of GTJM Property Limited;
 - Geotechnical evidence from James Molloy on behalf of GTJM Property Limited;
 - Evidence from Joe Morrison, Shareholder in GTJM Property Limited;
 - Concept plan on behalf of GTJM Property Limited;
 - Infrastructure evidence from Fluent Infrastructure Solutions on behalf of GTJM Property Limited;
 - Geotechnical assessment from James Molloy on behalf of GTJM Property Limited;
 - Landscape evidence from Jess McKenzie on behalf of GTJM Property Limited;
 - Concept design on behalf of GTJM Property Limited;
 - Tabled statement from Steve Shaw and Tania Brady;
 - Tabled statement from Susan Walker;
 - Legal submission from Bridget Irving on behalf of GTJM Property Limited;
 - Tabled statement from Joe Morrison on behalf of GTJM Property Limited; and
 - Tabled statement from Neil Harraway and Anita Chan.
32. RS14 – Freeman Close and Lambert St, Abbotsford:
- Planning evidence from Emma Peters on behalf of Wendy Campbell;
 - Tabled statement from Wendy Campbell;

- Tabled plans from the Dunedin Tunnel Trails Trust on behalf of Wendy Campbell;
 - Planning evidence from Kurt Bowen on behalf of Alan, David Geeves and Nicola Algie;
 - Structure plan for broad area on behalf of Alan, David Geeves and Nicola Algie;
 - Structure plan for McMeakin Road area on behalf of Alan, David Geeves and Nicola Algie;
 - Abbots Hill Road upgrade plan on behalf of Alan, David Geeves and Nicola Algie;
 - Planning evidence from Kurt Bowen on behalf of Bill Hamilton;
 - Structure plan for broad area on behalf of Bill Hamilton;
 - Structure plan for McMeakin Road area on behalf of Bill Hamilton;
 - Abbots Hill Road upgrade plan on behalf of Bill Hamilton;
 - Planning evidence from Kurt Bowen on behalf of Steve Ross (Nash & Ross Limited);
 - Tabled images from Jennifer Robinson;
 - Tabled statement from Roger Bailey (Bailey Family Trust);
 - Tabled statement from John Rawling, Wylde Willow Garden;
 - Tabled statement from Gerald Finn;
 - Tabled statement from Elisabeth Lukeman;
 - Tabled statement from Wendy Campbell; and
 - Tabled plans from Dunedin Tunnel Trails Trust on behalf of Wendy Campbell.
33. RS109 – 119 Riccarton Rd West, East Taieri
- Planning evidence from Kurt Bowen on behalf of Mark and Jacqui Taylor; and
 - Development Plan on behalf of Mark and Jacqui Taylor.
34. RS110 – 23 Sretlaw Place, Brockville
- Planning evidence from Emma Peters on behalf of Cole Bennetts;
 - Response to information requested from the Panel from Emma Peters on behalf of Cole Bennetts;
 - Tabled statement from Ann Venables and Justin Roy Venables;
 - Tabled statement from Helen and Myles Thayer; and
 - Tabled statement from David and Sarah Shearer.
35. RS151 – 147 St Leonards Drive, St Leonards:
- Planning evidence from Emma Peters on behalf of David Middleton.
36. RS153/RS204 – Chain Hills, Mosgiel
- Transport evidence from Grant Fisher on behalf of Gladstone Family Trust;

- 3 Waters evidence from Melanie Stevenson on behalf of Gladstone Family Trust;
- Planning evidence from Emma Peters on behalf of Gladstone Family Trust;
- Landscape evidence from Mike Moore on behalf of Gladstone Family Trust;
- Legal Counsel submission from Phil Page on behalf of Gladstone Family Trust;
- Tabled statement from Rennie Logan on behalf of Gladstone Family Trust;
- Tabled statement from Gordon Hunt;
- Tabled statement from Jim Cotter;
- Tabled statement from John Franklin;
- Tabled statement from Pam and Neville Jemmett;
- Tabled statement from Debra Gale;
- Tabled statement from Bronwyn Hughes; and
- Tabled statement from Holly and Gareth Shanks.

37. RS154/RS175 – 85, 91, and 103 Formby St, Outram:

- Planning evidence from Emma Peters on behalf of CC Otago Limited, Peter Doherty, Outram Developments Limited;
- Landscape evidence from Mike Moore on behalf of CC Otago Limited, Peter Doherty, Outram Developments Limited;
- Landscape figures from Mike Moore on behalf of CC Otago Limited, Peter Doherty, Outram Developments Limited;
- Transportation evidence from Andrew Carr on behalf of CC Otago Limited, Peter Doherty, Outram Developments Limited;
- Supplementary transportation evidence from Andrew Carr on behalf of CC Otago Limited, Peter Doherty, Outram Developments Limited;
- Evidence from Philip Osborne on behalf of CC Otago Limited, Peter Doherty, Outram Developments Limited;
- Evidence from Peter Doherty on behalf of CC Otago Limited, Peter Doherty, Outram Developments Limited;
- Evidence from Craig Horne on behalf of CC Otago Limited, Peter Doherty, Outram Developments Limited;
- Legal Counsel submission from Derek McLachlan on behalf of CC Otago Limited, Peter Doherty, Outram Developments Limited;
- Response to information requested from the Panel from Emma Peters on behalf of CC Otago Limited, Peter Doherty, Outram Developments Limited;
- Tabled statement from Margaret Henry;
- Tabled statement from Donal and Susan Broad; and
- Tabled statement from Christopher Girling.

38. RS157 – 90 Blackhead Rd and surrounds

- Planning evidence from Kurt Bowen on behalf of Craig James Duncan and Kirsten Jane Duncan;
 - Development Plan on behalf of Craig James Duncan and Kirsten Jane Duncan;
 - Planning evidence from Kurt Bowen on behalf of Barry and Fiona Armour; and
 - Development Plan on behalf of Barry and Fiona Armour.
39. RS161 – 210 Signal Hill Rd, Opoho
- Planning evidence from Kurt Bowen on behalf of Bob and Rose Cunninghame; and
 - Site photos on behalf of Bob and Rose Cunninghame.
40. RS169 – 41 Emerson St, Concord:
- Planning evidence from Kurt Bowen on behalf of Victor and Fiona Nicholson;
 - Site photos on behalf of Victor and Fiona Nicholson; and
 - Contour plans on behalf of Victor and Fiona Nicholson.
41. RS171 – 3 Brick Hill Rd and 18 Noyna Rd, Sawyers Bay
- Planning evidence from Darryl Sycamore on behalf of K & L Accommodation Limited;
 - Amended Planning evidence from Darryl Sycamore on behalf of K & L Accommodation Limited;
 - Transportation advice from Logan Copland on behalf of K & L Accommodation Limited;
 - Supplementary planning evidence from Darryl Sycamore on behalf of K & L Accommodation Limited;
 - Evidence from Rebecca McGrouther, Environment Manager on behalf of Port Otago Limited;
 - Evidence from Mary O’Callahan, Consulting Planner on behalf of Port Otago Limited;
 - Supplementary evidence from Mary O’Callahan, Consulting Planner on behalf of Port Otago Limited;
 - Legal Counsel submission from L A Anderson on behalf of Port Otago Limited; and
 - Response to supplementary planning evidence from L A Anderson on behalf of Port Otago Limited.
42. RS176 – 234 and 290 Malvern Street, Leith Valley
- Planning evidence from Kurt Bowen on behalf of Peter Marr and Marja van Loon;
 - Structure plan on behalf of Peter Marr and Marja van Loon;
 - Geotechnical report from JT and GB Walker on behalf of Peter Marr and Marja van Loon;
 - Landscape evidence from Mike Moore on behalf of Peter Marr and Marja van Loon; and

- Letter from real estate agent on behalf of Peter Marr and Marja van Loon.
43. RS193 – 177 Tomahawk Rd, Dunedin
- Planning evidence from Kurt Bowen on behalf of Danielle Nicolson, Tim Lequeux, and Sorrel O’Connel Milne;
 - Geotechnical report from Mark Walrond on behalf of Danielle Nicolson, Tim Lequeux, and Sorrel O’Connel Milne;
 - Additional geotechnical advice from Mark Walrond on behalf of Danielle Nicolson, Tim Lequeux, and Sorrel O’Connel Milne;
 - Stormwater Management Report from Ms Sarah Johnstone and Sorrel O’Connel Milne (e3Scientific Ltd) on behalf of Danielle Nicolson, Tim Lequeux, and Sorrel O’Connel Milne;
 - Structure plan on behalf of Danielle Nicolson, Tim Lequeux, and Sorrel O’Connel Milne;
 - Consultation response from Aukaha on behalf of Danielle Nicolson, Tim Lequeux, and Sorrel O’Connel Milne; and
 - Heritage Protocol from Heritage New Zealand on behalf of Danielle Nicolson, Tim Lequeux, and Sorrel O’Connel Milne.
44. RS195 – 774 Allanton-Waiholā Road, Allanton
- Planning evidence from Emma Peters on behalf of DDS Properties (2008) Limited;
 - Landscape evidence from Hugh Forsyth on behalf of DDS Properties (2008) Limited;
 - Attachment 1 of landscape evidence from Hugh Forsyth on behalf of DDS Properties (2008) Limited;
 - Structure plan on behalf of DDS Properties (2008) Limited;
 - Geotechnical evidence from Mark Walrond on behalf of DDS Properties (2008) Limited;
 - Evidence of Paul Rogers on behalf of DDS Properties (2008) Limited;
 - Tabled wastewater information on behalf of DDS Properties (2008) Limited; and
 - Response to information requested from the Panel from Emma Peters on behalf of DDS Properties (2008) Limited.
45. RS200 – 489 East Taieri-Allanton Road, Allanton
- Planning evidence from Emma Peters on behalf of Meats of NZ Limited; and
 - Response to information requested from the Panel from Emma Peters on behalf of Meats of NZ Limited.
46. RS205 – 761 Aramoana Rd, Te Ngaru
- Planning evidence from Allan Cubitt on behalf of Lex Anderson;
 - Appendix 1 Assessment of Environmental Effects from Allan Cubitt on behalf of Lex Anderson;

- Appendix 2 Scheme Plan of Subdivision on behalf of Lex Anderson;
 - Appendix 3 Record of Title on behalf of Lex Anderson;
 - Appendix 4 Geotechnical report from Geolink Land Investigations for Lex Anderson;
 - Appendix 5 Statement of evidence from Reginald Maurice Davis on behalf of Lex Anderson;
 - Appendix 6 ENV-2012-CHC-135 Consent Order, on behalf of Lex Anderson;
 - Tabled statement from Lex Anderson; and
 - Tabled statement from Claire Carey.
47. RS206/RS206a/RS77 – 309 North Road, 35, 37, and 43 Watts Road, North East Valley
- Planning evidence from Conrad Anderson on behalf of Fletcher Glass;
 - Infrastructure evidence from Kurt Bowen on behalf of Fletcher Glass;
 - Landscape evidence from Tony Milne on behalf of Fletcher Glass;
 - Appendix 1 of Landscape evidence from Tony Milne on behalf of Fletcher Glass;
 - Appendix 2 of Landscape evidence from Tony Milne on behalf of Fletcher Glass; and
 - Legal Counsel submission from Phil Page on behalf of Fletcher Glass.
48. RS212 – 170 Riccarton Rd West, Mosgiel
- Planning evidence from Emma Peters on behalf of Roger and Janine Southby; and
 - Evidence from Property Economics on behalf of Roger and Janine Southby.
49. Statements tabled at Hearing 4:
- Tabled statement from Transpower New Zealand Ltd;
 - Tabled statement from Otago Regional Council;
 - Tabled map from Christopher and Allison Stewart;
 - Tabled map from Anthony Fitchett;
 - Tabled statement from Andrew Rutherford & Simone Lehr;
 - Tabled maps from Chris Medlicott; and
 - Tabled legal statement from Radio New Zealand.
50. Rights of reply to Hearing 4:
- Council's Reporting Officer's Reply;
 - Council's Reporting Officer's Reply Appendix 1;
 - Council's Reporting Officer's Reply Appendix 2;
 - Memorandum from City Development on Residential Development Capacity;
 - Memorandum from Landscape Architect;
 - Memorandum from DCC 3 Waters;

- Memorandum from Stantec;
- Memorandum from DCC Transport, including input from Avanzar Consulting;
- Memorandum from DCC Parks and Recreation;
- Memorandum from The Manager Natural Hazards, Otago Regional Council; and
- Additional Memorandum from DCC 3 Waters.

51. Responses to Minutes issued by the Hearing Panel:

- Council's Reporting Officers response to Minutes 15, 16, and 17;
- Legal submission on behalf of the Dunedin City Council in response to Minute 17;
- Response to Minute 17 from Danielle Nicolson, Tim Lequeux, and Sorrel O'Connell Milne;
- Reporting Officer's further response on RS193 (177 Tomahawk Road);
- Legal submission on behalf of the Gladstone Family Trust in response to Minute 17 and 18;
- Response to Minute 17 and 18 from the Otago Regional Council;
- Response to Minute 17 from Alice Maley;
- Response to Minute 17 from Christopher Girling;
- Response to Minute 17 from Margaret Henry;
- Response to Minute 17 from Susan and Donald Broad;
- Response to Minute 17 and 18 from Emma Peters on behalf of a number of submitters;
- Response to Minute 17 and 18 from Kurt Bowen on behalf of a number of submitters;
- Legal submission in response to Minute 17 from CC Otago Ltd, P Doherty & Outram Developments Ltd;
- Legal submission in response to Minute 20 from CC Otago Ltd, P Doherty & Outram Developments Ltd;
- Legal submission in response to Minute 20 from the Dunedin City Council;
- Legal submission in response to Minute 20 from Gladstone Family Trust; and
- Legal submission in response to Minute 20 from the Otago Regional Council.

52. Planning evidence regarding the National Policy Statement on Highly Productive Land (NPS-HPL)

- Council's Reporting Officer's addendum to the section 42A report on the application of the NPS-HPL;
- Memorandum from Nathan Stocker regarding development capacity and the NPS-HPL;
- Statement from the Otago Regional Council;

- Planning evidence from Emma Peters on behalf of DDS Properties Limited and Meats of New Zealand Limited;
 - Planning evidence from Emma Peters on behalf of Ross McLeary, COF Limited, Scroggs Hill Farm Limited;
 - Planning evidence from Emma Peters on behalf of Gladstone Family Trust;
 - Planning evidence from Emma Peters on behalf of Roger and Janine Southby;
 - Planning evidence from Emma Peters on behalf of CC Otago Ltd, P Doherty & Outram Developments Ltd;
 - Planning evidence from Kurt Bowen on behalf of Bill Hamilton, Alan David, David Eric Geeves and Nicola Jane Algie, Nash and Ross Ltd (Steve Ross), and Wendy Campbell;
 - Evidence from Kurt Bowen on behalf of Mark and Jacqui Taylor;
 - Council’s Reporting Officer’s reply on the NPS-HPL; and
 - Memorandum from Nathan Stocker responding to questions asked by the Hearing Panel.
53. Planning assistance to the Panel was provided by:
- Dr Anna Johnson, City Development Manager; and
 - Ms Suzie Ballantyne, Team Leader Planning (* note that Ms Ballantyne is not the Team Leader for the Reporting Officer).
54. Where the Plan has been amended through our decisions, the changes are shown in Appendix 1 (provisions) and Appendix 2 (mapping) with the change number followed by the submission point being referred to, e.g. Change A1/SXXX.XXX.

1.3 About this decision

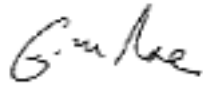
55. This decision report addresses our decisions on submissions on the proposed rezonings in Variation 2 that were classified as greenfield residential rezonings (which include some areas that have operative residential transition overlays applied). It also addresses our decisions on submissions on rejected greenfield residential rezoning options that were outlined in the section 32 report as having been assessed to some degree. Based on the advice given by Ms McEwan, a reporting officer for Variation 2 who addressed matters of scope, we considered these rejected sites to be within the scope of the variation.
56. Changes proposed to provisions, and the intensification rezoning areas, were addressed in our first decision¹.
57. In making our decision, we have considered the matters that section 74 of the RMA requires us to consider, including relevant national policy statements and the proposed regional policy statement. Details of the relevant documents and provisions have earlier been provided in the evaluation report prepared and publicly notified by the DCC, dated 21 February 2021, and prepared in compliance with section 32, and Clause 5 of Schedule 1, of the RMA (‘the Section 32 Report’), and also the section 42A reports. We adopt the relevant

¹ Variation 2 First Decision Report, 31 May 2022. [Variation-2-First-Decision-Provisions-and-Intensification-Rezoning-Decision-report-Annotated-9-Nov-2022.pdf](https://www.dunedin.govt.nz/assets/Uploads/Variation-2-First-Decision-Provisions-and-Intensification-Rezoning-Decision-report-Annotated-9-Nov-2022.pdf) (dunedin.govt.nz)

parts of the section 32 report, in particular section 1.2.1 which describes the statutory and planning context for Variation 2. We note there is now a new National Policy Statement for Highly Productive Land (NPS-HPL) since the section 32 report was prepared, and we address this in Section 3.

58. To avoid unnecessary repetition, and as provided for by section 113(3)(b) of the RMA, we adopt the 'summary of submission' for each submitter as contained in the section 42A report. In some cases, having carefully considered the submissions and evidence presented, we agree with reporting officers' assessments and recommendations. Where that occurs, we state that we adopt those assessments and recommendations. A consequence of our approach is that parts of the section 42A report that we adopt and cross-refer to are to be read as forming part of this decision report.
59. Where we have come to a different conclusion to the reporting officer based on our own assessment of the facts and the evidence lodged by submitters, we set out our own reasons with our decision.
60. Section 32AA of the RMA requires a further evaluation of any changes made to Variation 2 after the initial evaluation report. The further evaluation can be the subject of a separate report, or it can be referred to in the decision-making record. We confirm that we have used the second option and have undertaken a further evaluation in this report of any new changes to the 2GP that are additional to those that were notified and evaluated as part of the section 32 assessment. In some cases our assessment draws on that of the reporting officer, where that change is recommended by them. We recognise that our evaluation is not confined to assessing the benefits and costs. The evaluation must include the duties prescribed by the Act as well as consider higher-order instruments.
61. All changes to provisions made as part of this decision are shown in Appendix 1 (provisions), along with any notified changes to the 2GP that remain unchanged by our decisions. Appendix 2 (mapping) only shows changes to mapping where they were amended by our decisions. Changes to mapping that remain as notified can be viewed in the 2GP planning maps. The appendices do not contain any changes that have been deemed operative.
62. We note that where appropriate, for readability or consistency, we have made minor changes to the formatting, grammar, numbering and layout of provisions under clause 16 of Schedule 1 of the RMA. Clause 16 provides for amendments to be made to a proposed plan where these are of minor effect, or to correct minor errors, without using the Schedule 1 process.
63. Our decisions are given on a topic or site basis and may or may not list every individual submitter who made a submission on that topic or site, by name. However, our decision report addresses all the decisions requested within each topic.
64. Our decision report does not specifically state our decisions with respect to further submissions. Our decisions on further submissions are consequential to our decisions expressed on the original submissions, to which those further submissions relate.
65. Submitters can refer to the contents page to find our decisions on topics they submitted on. Submitters can also use the search function (Ctrl>F) to find any specific reference to their submission by searching for their surname, submitter number (e.g. S123), and/or, where they were assisted by a surveying or planning consultancy, the name of the consultancy or consultant.

66. We hereby issue this decision in accordance with the authority afforded us by the DCC:



Gary Rae
Independent Commissioner, Chairperson



Jim O'Malley
Commissioner



Steve Walker
Commissioner

Dated: 8 February 2023

2 DECISIONS ON SUBMISSIONS

2.1 Broad matters raised in regard to greenfield rezoning

67. We start by discussing several over-arching issues that have relevance to our decisions on rezoning. During the course of Hearing 4 the Panel posed a number of questions of legal counsel and witnesses on these broad issues. Our conclusions on these matters, having considered the legal submissions and expert evidence, provide context to the site-specific decisions outlined later in the decision report.

2.1.1 *Relationship between the NPS-UD and Variation 2*

2.1.1.1 *Is the intent of Variation 2 to achieve compliance with the NPS-UD?*

68. We received legal submissions from Mr McLachlan on behalf of *CC Otago Limited* arguing that the purpose of Variation 2 is to achieve compliance with the NPS-UD 2020, in particular to ensure there is at least sufficient housing capacity to meet demand over the short, medium and long terms. This argument was made in the context of disputing the methodology and accuracy of DCC's housing and business capacity assessment (HBA). Mr McLachlan argued that where there is uncertainty or volatility in the capacity provided, we should err on the side of caution and ensure that Variation 2 provides at least sufficient development capacity. Mr Page, for *Gladstone Family Trust*, submitted that Variation 2 is "effectively a response to the housing capacity assessment" and that the NPS-UD Policy 8 obliges councils to take advantage of development opportunities as they arise.
69. As Mr Garbett correctly pointed out in his legal submissions in reply, we had considered the purpose of Variation 2 in our decision on scope². Our conclusion in that decision is that Variation 2 is a series of limited plan review topics and proposals, not all of which are concerned with housing capacity or implementing the NPS-UD. We note that our decision on scope was challenged through a section 357 process but was upheld by an independent Commissioner and was not thereafter appealed by any parties to Variation 2. We therefore maintain our view that Variation 2 does not have an overarching purpose of achieving compliance with the NPS-UD. The NPS-UD requires that a strategic approach is taken to growth planning. Variation 2 will provide some 'easy wins' in terms of additional housing capacity, but it is only part of a wider process, including a Future Development Strategy (FDS), that is necessary to give effect to the NPS-UD.
70. Mr Garbett argued that it is not the responsibility of the Panel to ensure that all capacity requirements are met through the options available through Variation 2. Instead, our role is to assess the appropriateness, or not, of the particular sites put forward (including sites requested through submissions).
71. We agree with Mr Garbett's assessment. In our view, the overall responsibility for compliance with NPS-UD remains with the Council not with this hearings panel which has a narrower mandate. The Variation 2 proposals before us are intended to provide extra housing capacity in identified locations and will contribute to giving effect to the NPS-UD. However, it is not necessary for us to zone sites that we consider do not meet the 2GP's policies (in particular Policy 2.6.2.1) simply to ensure additional capacity is provided.

² Out of Scope Decision Report, 31 May 2021. [Variation-2-Out-of-Scope-Decision-Report-31-May-2021.pdf](https://dunedin.govt.nz/variation-2-out-of-scope-decision-report-31-may-2021.pdf) (dunedin.govt.nz)

2.1.1.2 Does the purpose of NPS need to be met at a township level?

72. Related to the above, Mr McLachlan for *CC Otago Limited*, argued that there was a demand for additional housing in Outram, and therefore (by implication) Variation 2 should rezone additional capacity within that settlement. Ms Peters, representing submitters in Outram and Allanton, made a similar argument in relation to Policy 2.6.2.1.a, which is that rezoning is necessary to ensure provision of at least sufficient housing capacity to meet expected demand over the short and medium term. She considered that there is demand for housing in both Allanton and Outram, and therefore the criterion in 2.6.2.1.a is met for requested sites in those locations (that is, capacity should be provided to at least meet demand). Similar arguments were advanced by other submitters in relation to sites at Allanton and Brighton.
73. Mr Garbett's view was that the NPS-UD does not require each centre to fully implement the NPS-UD. We understand that to mean that there is no requirement to provide capacity in each individual suburb, settlement or township. Mr Stocker drew our attention to guidance produced by Ministry for the Environment (MfE) on implementing undertaking housing capacity assessments that "local authorities have discretion to choose how locations are identified for clauses 3.24 and 3.25"³. He also noted guidance prepared on implementing the NPS-UD clearly states a preference for analysis at a catchment scale⁴. This guidance notes that:

To ensure the analysis remains manageable, it may make sense to aggregate area units into a more general classification of locations, for example, central business district, inner city suburbs, peripheral suburbs and areas with high amenity (such as beachside property). These general categories may be more useful than individual suburbs, given that households are mobile within urban areas and will accept trade-offs between similar types of suburbs. This will show the revealed preferences of these household sub-groups for different types of housing at different types of locations (such as inner city suburbs or peripheral suburbs), given current market conditions.

74. He also noted the Dunedin's Housing and Business Development Capacity Assessment (HBA) was scored highly, in an independent review commissioned by MfE and undertaken by Principal Economics and Urban Economics, for using "rigorous methods to explore the range of demands for types, locations and price points to the extent relevant in the urban market".
75. We confirm here that we accept and agree with Mr Stocker's evidence on the requirements of the NPS-UD and Mr Garbett's submission on this matter. We find there is no requirement so ensure that the NPS-UD is given effect to at a fine-grained scale. To do so would be impractical. We are satisfied that the various catchments assessed in the HBA are appropriate for the purposes of giving effect to the NPS-UD. This is corroborated by the independent review of the assessment. Consequently, we find that even if we were to accept that there is demand for additional capacity within a specific township, there is (a) no requirement under the NPS-UD to provide capacity in that township, and (b) no requirement to provide it through Variation 2.

³ Guidance on Housing and Business Development Capacity Assessments (HBAs) under the National Policy Statement on Urban Development (Ministry for the Environment, 2020), page 21

⁴ National Policy Statement on Urban Development Capacity: Guide on Evidence and Monitoring (Ministry of Business, Innovation and Employment and the Ministry for the Environment, 2017), page 33

2.1.1.3 *Is the methodology for assessing capacity appropriate?*

76. As noted above evidence and legal submissions were presented on behalf of submitters seeking rezoning of sites in Outram and Brighton, one aspect being that the HBA was inaccurate. These criticisms are broadly as follows:
- there is no consideration of the impact of the new rule implemented through this Panel's decisions on an earlier hearing regarding demolition of pre-1940s houses;
 - there were issues with the modelled zoned capacity of sites in relation to (for example) historic rubbish tips, steep slopes, access and encumbrances;
 - disagreement over assumptions used to determine feasible capacity; and
 - the method used to assess realisable capacity (that is, capacity that is reasonably expected to be realised), adds volatility and increases the margin of error on the capacity estimates.

2.1.1.4 *Impact of demolition rule for 1940s houses*

77. Our first decision on Variation 2 (intensification) required that proposals for demolition of pre-1940s houses will require resource consent. An assessment must be made of the building, and if it is found to meet the criteria for scheduling of heritage buildings, the application for demolition must be assessed against Policy 13.2.1.7, which is a directive 'avoid' policy.
78. Ms Peters gave evidence that this will mean some 1940s houses will now have to be retained and that the consequent reduction in development capacity for these sites was not accounted for within the HBA.
79. Since the hearing, the Environment Court has considered an appeal on these provisions that raised the matter of scope. The Court decision is that the submission (and matters raised within) we relied on to add these provisions was beyond the scope of Variation 2 and therefore directed the provisions be removed from the plan. The issue raised by Ms Peters therefore no longer arises, and this will therefore have no impact on the available development capacity.

2.1.1.5 *Issues with the modelled zoned capacity of sites in relation to site-specific factors*

80. Ms Peters outlined that, during mediation on 2GP appeals to rezone sites to residential, a finer grained analysis of larger sites (that could provide six or more residential units) revealed issues with various site-specific factors. The implication is that the realisable capacity on some or all of these sites would be lower than modelled. Ms Peters stated that repeated requests had been made of Council staff to obtain site specific capacity data for checking by the submitter's experts; however, this had not been provided.
81. Mr Stocker's response was that he had not seen the analysis referred to by Mrs Peters and so couldn't comment on the specific issues raised. He remained confident in the results of the Council's assessment, noting it was supported by the favourable review undertaken on behalf of MfE. As outlined above, the estimate of realisable capacity was described in the review as rigorous, and a 'high' score was given.

82. He advised us that site specific data is not made publicly available as this could provide a commercial benefit to those receiving it, and could also potentially breach privacy requirements. He said that property level outputs are not intended for use individually, but are aggregated into suburb (or larger) scale. These aggregated results are considered accurate.
83. The Panel considers the favourable review given by MfE to the HBA is a relevant consideration. We also accept Mr Stocker's explanation in relation to the accuracy of model results at a property-specific level, compared to a catchment level, which is their primary use. While Ms Peters has previously identified such discrepancies at a specific property-level, this is to be expected and is not of concern in relation to our reliance on the broader level model results.

2.1.1.6 *Disagreement over assumptions used in the 2021 HBA to determine feasible capacity*

84. Mr Osborne, appearing on behalf of *CC Otago Limited*, confirmed he had reviewed the HBA and, while noting that overall the modelling was appropriate and well done, took issue with assumptions used to determine long term housing capacity. In particular, the assumptions made in the 2021 HBA based on Dunedin's long-term projections of annual increases in land values, property improvement values, and construction and development costs significantly increased long-term capacity. Mr Osborne disagreed with the reasoning for making these assumptions, as it relies on house prices increasing in order to increase capacity. This modelling approach is inconsistent with the city's ability to provide for future growth that is both feasible and affordable.
85. Mr Stocker disputed that the predicted increase in long-term capacity in the 2021 HBA was primarily due to the use of long-term economic trends, as he considered other factors are also significant. He said that 77% of the predicted long-term capacity is currently feasible, and does not rely on future economic trends such as house price changes. In addition, long term trends, such as an increase in house prices, were conservative compared to the higher house price increases over recent years (between 1996 and 2019). He further noted that these assumptions are only applied to long-term capacity, which is not required to be provided in the District Plan under the NPS-UD.
86. We accept Mr Stocker's explanation as to the use of long-term projections in determining capacity over the long-term, and importantly, agree that capacity over this period is not required to be provided in the District Plan, and is a more relevant consideration to the development of an FDS. If the assumptions in the HBA are wrong in relation to long-term capacity, this will have no impact on what must be provided. We also note our discussion above, that the purpose of Variation 2 is not to fully implement the NPS-UD, rather it is only one part of its implementation.

2.1.1.7 *Assessment of realisable capacity*

87. Mr Osborne challenged the estimation of feasible capacity in the HBA as it relies on only two years of data. He said that this adds additional volatility into the capacity estimates, and that assuming a take-up rate that is 20% lower than that modelled would result in a feasible capacity of 1800 fewer dwellings over the long term.
88. Mr Stocker emphasised that the 2022 update to the HBA had revised the annual probability for development (i.e. the take up rates). Whilst he acknowledged the uncertainty of using

only two years' worth of data, he also noted that take up rates could increase as well as decrease, and that over the medium term, this is likely to average out. He explained take up will continue to be monitored and used to inform future HBAs.

89. While we acknowledge Mr Osborne's concerns the Panel is satisfied with and accepts Mr Stocker's responses. Overall we consider the assessment of realisable capacity is adequate and can be relied upon for the purpose of determining the planning response in Variation 2.

2.1.2 Assessment against Policy 2.6.2.1

2.1.2.1 A broad judgement or meeting a majority of criteria?

90. Policy 2.6.2.1 outlines the criteria for rezoning sites to residential, against which all residential rezoning are to be assessed.

91. A number of submitters discussed the assessment of sites against Policy 2.6.2.1, and discussion arose in relation to whether all of the criteria within the policy must be met, and whether there was a hierarchy. For example, Mr Page, counsel for Gladstone Family Trust, noted that:

"It is not realistic to expect all criteria to be met in every site and no hierarchy is set out in the criteria. What is required is a balancing exercise by the Panel."

92. A similar view was expressed by Ms Peters. While there appeared to be general agreement that we must consider and weigh up all criteria, we enquired at the hearing whether there were any 'knock-out' criteria that must always be met for zoning to occur.

93. Ms Christmas addressed this matter in her evidence in reply, noting that Policy 2.6.2.1 draws together relevant (usually strategic) objectives that must be considered, and that the policy does not require that 'a majority' of the criteria must be met. The wording of the policy is:

'Identify areas for residential zoning based on the following criteria...'

94. Her evidence was that the various criteria in Policy 2.6.2.1 sit under the over-riding approach outlined in Objective 2.6.1, which is to zone land 'in the most appropriate locations' while 'sustainably managing urban expansion in a way that maintains a compact city with resilient townships'.

95. Ms Christmas considered that the weight given to the various criteria referenced within Policy 2.6.2.1(d) must be considered in the context of the situation. She agreed with Mr Garbett's legal submissions that a relevant consideration is how directive the wording of the objectives and policies that are referenced in Policy 2.6.2.1 is. However, she also considered that some criteria should generally be given strong weight for other reasons. For example, she argued that significant weight should be given to the effective and efficient provision of infrastructure, due to its emphasis in the NPS-UD, which directs that that capacity must be assessed in terms of the degree to which it is infrastructure ready. Furthermore, if 3 waters servicing is not available or managed ineffectively, significant environmental and health and safety issues can result.

96. Ms Christmas also considered management of natural hazards should also be given significant weight due to the implications for health and safety and because most natural hazards are predicted to worsen over time due to climate change.

97. Finally, she considered that compact city and resilient townships criteria are particularly important due the 'overall urban form outcome' in the Spatial Plan, its alignment with Policy 1 clauses (c) and (e) of the NPS-UD, and the overall 'direction of travel' in national direction in terms of intensification of existing urban areas, and the increasing concern and need to reduce carbon emissions and prepare for climate change.
98. Ms Christmas' evidence was that a broad judgement approach should be taken, but there should be an expectation of an overall positive alignment with the Plan's strategic objectives.
99. We agree that a broad judgement approach should be taken. However, we consider that some criteria will in most or many cases be more critical than others, for example the provision of infrastructure. Our finding is that each assessment must consider relevant site factors, and so the specific assessment (in terms of what is given most weight) may vary from site to site. We have reflected this in our individual site conclusions below.

2.1.2.2 Question over whether some criteria should be or have been treated as 'knock-out' criteria?

100. On a related topic, we also observed at the hearing that, for some site assessments carried out by the reporting officers, the initial assessment of some of the rejected sites appeared incomplete and appeared to stop after some 'knock out' criteria were assessed as not being met. We asked the reporting officers to confirm if that was the case.
101. In her Reply Report, Ms Christmas provided some context by explaining the process by which Variation 2 had evolved. The greenfields part of the investigation for Variation 2 involved an initial 'traffic light' assessment of the entire city, where areas were scored at a high level on a range of criteria reflecting the criteria in Policy 2.6.2.1 (for example distance from centres, presence of a significant landscape overlay). However, DCC also sought suggestions for suitable sites from the development community, particularly planners, developers and surveyors.
102. These suggested sites were first subject to a high level 'screening' level of assessment against a few key criteria (for example hazard risk, known infrastructure issues, known significant landscape or biodiversity values). If sites did not pass these screening criteria they were rejected. In addition to the key criteria, a further key consideration was that the site would provide a reasonable return in terms of additional housing capacity (e.g. rural residential proposals were discarded).
103. Ms Christmas noted that use of key criteria to screen a large set of options is a pragmatic approach in order to focus time and resources on sites that are most likely to be appropriate, given the time and cost involved in undertaking a comprehensive assessment. She noted that for many plan changes, options that are rejected at a screening stage are not included as alternative options for the purposes of a section 32 evaluation. However, in the case of Variation 2, even sites that were rejected through the screening stage (and by virtue of that, not subject to a comprehensive assessment) were included in the section 32 report and were therefore open to submissions.
104. We consider that process was appropriate, but re-iterate our conclusions on the previous topic, i.e. that a broad judgement approach should be taken but some criteria will in most or many cases be more critical than others.

2.1.2.3 What factors make a compact city?

105. Policy 2.6.2.1.d.xi, which is concerned with maintaining a compact city and resilient townships, references Objective 2.2.4. This states that:

Dunedin stays a compact and accessible city with resilient townships based on sustainably managed urban expansion. Urban expansion only occurs if required and in the most appropriate form and locations.

106. Mr Morrissey, in his section 42A report, noted in relation to a number of sites that this policy was not met as they were disconnected from existing residential zoned land. Evidence was provided by Ms Peters in relation to one of these sites (RS212) that disconnection from residentially zoned land does not provide sufficient reason not to rezone a site, as the 'gap' might ultimately be rezoned as residential. We were not convinced by that argument as to the theoretical location of new development in un-zoned areas. We also note that the compact city objective was not addressed properly, or at all, by submitters for the majority of requested sites. The issue also arose in relation to site GF01 (Scroggs Hill), where we questioned whether this site met the compact city objective, and how should that be assessed.
107. In her evidence in reply, Ms Christmas noted that the term 'compact city' comes from the Spatial Plan, which was undertaken, in part, to guide the development of the 2GP. A 'compact and accessible city' is described as one that supports public transport and active transport modes due to its density, diversity and distribution of land use, and the design of its built form. She noted this was consistent with Policy 1(c) of the NPS-UD, which identifies well-functioning urban environments as including (amongst other things) good accessibility between housing, jobs and community services.
108. Ms Christmas considered that a determination of sustainably managed urban expansion involves consideration of the ability to walk and use public transport to access services and amenities. Zoning decisions that achieve this will focus on land close to centres, other community facilities and services and public transport routes, and minimise walking times where possible, and will provide for efficient land development (as outlined in Policy 2.2.4.1). This compact urban form provides multiple benefits, including providing for efficient provision of infrastructure, minimising vehicle use (and therefore reducing traffic and carbon emissions), and can also contribute to reducing loss of productive rural land, rural amenity, biodiversity and significant natural values.
109. While not addressing whether new residentially zoned areas must be connected to existing zoned areas, she did note that in her view a compact city would not be achieved by zoning patches of residential development, and in particular large lot development (as addressed further in section 2.1.4 of this decision report), that are disconnected from existing urban centres. Her evidence was that this development pattern (represented, for example, by sites RS109 and RS212 at Riccarton Road East, and RS157 at Blackhead Road) does not meet this objective.
110. We acknowledge the significance of this policy criterion, given its importance for providing well-functioning urban centres, as outlined in the NPS-UD, and with consideration for climate change and the need to manage carbon emissions.
111. Consequently, we agree that new residential land should provide for efficient land use (as outlined in Policy 2.2.4.1), and provide for walking and cycling transport options. In general,

we are of the view that this necessitates that new zoned land adjoining existing zoning. However, we acknowledge there may be circumstances where a compact city form may be attained without this always being met, if for example an area for growth is identified in a strategic planning document (FDS) and development occurs out of sequence but otherwise can be supported by planned infrastructure.

112. We have taken this approach in our decisions below, in many cases rejecting those sites that do not reflect this outcome, including those proposed for large lot zoning where there is no strong reason for this (noting the criteria in Policy 2.2.4.1), and those isolated and disconnected or with poor access to existing centres.

2.1.2.4 Consideration of resilient townships

113. Submitters in relation to sites at Outram, Allanton and Brighton were critical of the approach taken in assessing sites against Policy 2.6.2.1.d.xi. They argued that a 'Dunedin-centric' approach had been taken and that the 'resilient townships' aspect of the policy had been overlooked. This argument was particularly advanced by Ms Peters, and also in legal submissions by Mr McLachlan for *CC Otago Limited*. Mr McLachlan's submissions focussed on Outram, which he argued is a rural centre as identified on the 2GP planning maps. He argued that housing is encouraged in rural centres under Policy 2.2.4.2. He did note that where development is not proposed in the 'centre' there is a greater policy hurdle to overcome in relation to providing for increased development.
114. Mr McLachlan also addressed the relevance of the Spatial Plan in regard to determining where growth should occur, arguing that this is an outdated document, pre-dating the 2GP and the NPS-UD and that little weight should be placed on it.
115. Ms Peters noted that Dunedin is primarily a rural district, and that rural townships are required to provide housing for those who work in these areas. She said this was supported by the evidence of Mr Osborne on travel trends of those living with the Momona Statistical Area 2 (which includes Outram). This shows that 40% of people living within SA2 stay within it for work or study, and a further 22% commute to Mosgiel. Mr Osborne noted that given the higher proportion of retired residents in Outram relative to the wider Momona area, the travel data may overstate the travel trends for Outram specifically. Almost one third of Outram's workforce travels to Dunedin for employment. In summary, Ms Peters considered that growth must be provided for in townships to support rural areas.
116. With respect to the sites proposed at Outram, Ms Christmas noted that assessment against Objective 2.2.4 reflected the focus on the transport-related aspects of maintaining a compact city (and a 'well-functioning urban environment'). She noted that development in this location is further from the main sources of work and high schools at Dunedin and Mosgiel, and currently cannot access public transport, meaning more housing in this location will result in additional traffic and related carbon emissions.
117. However, she acknowledged that little attention has been given in the assessments to whether resilience of the various townships may be maintained or improved by allowing further development. This was due to the inherent difficulty in demonstrating how change may maintain or improve resilience (except in its meaning in relation to natural hazards).
118. She noted that townships are not defined or identified in the 2GP, however the Introduction to Section 15 – Residential Zones states:

5.1.1.7 Township and Settlement

The Township and Settlement Zone applies to areas beyond the main urban areas of Dunedin and Mosgiel and includes areas that were once independent settlements, such as Port Chalmers and Portobello. It includes larger residential townships supported by a commercial centre and smaller residential settlements that are not attached to a commercial centre. ...

119. The Spatial Plan defines townships as:

Townships – are the outlying residential settlements that have a centre and a range of community facilities and services. Townships include Mosgiel, Waikouaiti, Port Chalmers, Waitati, Middelmarsh, Outram, Brighton, and Portobello.

120. On this basis, she concluded that Brighton and Outram (which both have commercial centre zones) are townships, but that Allanton is not a township.
121. She also noted that ‘resilience’ is also not defined in the 2GP, but may include factors such as community and commercial services to support residents, having sufficient business land and activity to provide employment (and services) for residents, and avoiding hazards or having sufficient land available for people to move away from hazards.
122. In her view resilience, and the factors necessary to maintain it, is difficult to determine and an increase in population may not directly lead to an increase in resilience. She noted that no evidence was presented by submitters that additional zoned capacity is required to maintain or achieve resilient townships.
123. Her evidence was that the FDS process is the most appropriate means to determine whether additional housing or business land capacity is needed to maintain or improve resilience.
124. We agree that the resilience of townships is an important aspect of Policy 2.6.2.1.d.xi, but note that we did not receive any substantive evidence that would support, or refute, the need for additional housing capacity to achieve or maintain resilience. In the absence of this, we cannot conclude that this is a reason that should be determinative, or be given significant weight, in providing additional capacity in locations that do not meet other important criteria for assessment. This is reflected in our decisions on individual sites below. We note the evidence that this matter will be further addressed through the FDS process, currently underway.
125. We further agree with Ms Christmas that Allanton is not a township as identified through the relevant planning documents, including in the Spatial Plan. This aspect of 2.6.2.1.d.xi therefore does not apply.

2.1.3 Is residential zoning appropriate in an SNL?

126. Several submitters sought residential zoning for sites that are affected by a mapped Significant Natural Landscape (SNL) or Outstanding Natural Landscape (ONL) overlay zone, including RS161, RS165, RS168, RS206 and an extension to GF11.
127. The appropriateness of zoning these residential was addressed in the section 42A report at 4.3, where Mr Morrissey noted that a key attribute of such areas is naturalness and that urban use is incompatible with this. He highlighted Policy 2.6.2.1.d.iv, which states:

“Achieving [protection of ONLs and SNLs] includes generally avoiding the application of new residential zoning in ONF, ONL and SNL overlay zone.”

128. We heard legal submissions and evidence on this in relation to a number of sites. Mr Page, for *Fletcher Glass*, submitted that the 2GP provisions in Section 10 Natural Environment, and the overriding strategic provision, Objective 2.4.4 and policies 2.4.4.1 and 2.4.4.2, apply in all zones, and they therefore provide protection of these values if a site is zoned residential. He argued that the 2GP contemplates management of SNL values in relation to development through design controls, and that (in the case of the North Road/Watts Road site for example – RS206/RS206a/RS077) effects on the SNL can be managed through controls on built form and vegetation.
129. Ms Peters, in evidence relating to site RS151 (147 St Leonards Drive), noted that in her assessment the term ‘generally avoid’ in Policy 2.6.2.1.d.iv is not a total prohibition on residential zoning in a landscape overlay, instead it implies that in certain, perhaps very limited, circumstances, it can be applied.
130. A similar argument was made by Mr Bowen in relation to site RS161 (210 Signal Hill Road). His view was that carefully considered applications, particularly where there are significant positive effects, may not be contrary to this policy.
131. The Panel acknowledges that the ‘generally avoid’ policy framework means there is not a blanket prohibition on development within areas affected by these overlays. However we consider it sets a very high bar and requires a considerable level of assessment to establish that a particular proposal will not conflict with this fairly strong policy. We also note that some sites had only a small portion affected by an SNL. Mr Morrissey’s evidence was that the SNL overlay could be removed where it overlapped with the proposed residential rezoning. We discuss these situations in relation to those specific sites later in this decision.

2.1.4 When is large lot residential zoning appropriate?

132. Submissions on a number of sites requested that they are zoned to Large Lot Residential, rather than General Residential 1 or Township and Settlement zoning. In addition, in response to issues raised by submitters or in the section 42A report, some landowners sought that their site be zoned to a less dense zoning than originally requested, usually Large Lot Residential 1 or 2 rather than General Residential 1. As we understand the submissions and evidence, this approach was generally to avoid or address concerns on matters raised in the section 42A report such as effects on provision of 3 waters infrastructure, landscape values, rural amenity, neighbouring properties and traffic volumes, by reducing the overall development potential of each site.
133. While we understand the rationale for this approach, this focusses our attention on Policy 2.2.4.1, which is to:

Prioritise the efficient use of existing urban land over urban expansion by: ...

- b. ensuring that land is used efficiently and zoned at a standard or medium density (General Residential 1, General Residential 2, Inner City Residential, Low Density, or Township and Settlement), except if: hazards; slope; the need for on-site stormwater storage; the need to protect important biodiversity, water bodies, landscape or natural character values; or other factors make a standard density of residential development inappropriate; in which case, a*

*large lot zoning or a **structure plan mapped area** should be used as appropriate.*

134. Ms Christmas, in her evidence in reply, addressed the use of Large Lot zoning for the purposes of on-site servicing where 3 waters servicing is not available. She noted that the need for on-site servicing is not a reason listed in Policy 2.2.4.1 to make provision for Large Lot zoning. Instead, a Residential Transition Overlay zone could be applied, with residential use at an appropriate density once servicing is available. Ms Christmas also raised the concern that Large Lot zoning is not an efficient use of the land if it can potentially support denser development in the future. Rezoning to Large Lot potentially locks in an inefficient development pattern that prohibits intensification or upzoning in the future.
135. While we address the site-specific issues raised in relation to each site below, our general view is that, through Variation 2, General Residential 1 density is preferred and that strong (on-going) reasons are necessary to justify a less dense zoning. Where GR1 is not possible now but may be possible in the future (for example due to servicing constraints), our view is that Large Lot Residential zoning is not appropriate, as an interim approach. This is due to the difficulties of ensuring that denser zoning occurs in the future. We think there is too much risk that once an area is developed, intensification will be slow or challenging to implement (in terms of upgrading or adding infrastructure that would be needed for the future density). We agree it is far better to design and develop an area at the higher density from the beginning.
136. We note that Ms Christmas recommended that an RTZ overlay could be applied to land that has been assessed as appropriate to zone for residential land but where programmed infrastructure upgrades are not yet available. In general this is preferable to implementing Large Lot Residential zoning as part of Variation 2.

2.1.5 *Is there an expectation that rural-zoned land should be productive?*

137. Several submitters made the case that their rural land was not providing an economic return, and therefore residential zoning was a more appropriate zoning. We note, for the most part, this information was anecdotal and not supported by economic evidence.
138. Ms Christmas addressed this in her Reply Report, advising that the principal functions of the rural environment are both to provide for productive rural activities and to provide ecosystem services. There is no expectation that all rural zoned land will achieve an economic return sufficient to provide a sole income for one or more landowners, and many small rural properties only provide supplementary income.
139. However, these properties may still be important collectively for the overall rural economy, for example by growing feed sources for more intensive farming operations or supporting contractors that service small rural food producers. Some rural land may have no economic return but may provide invaluable ecosystem services or act to protect values important to communities (for example outstanding or significant modified pastoral landscapes).
140. We agree with Ms Christmas' assessment and do not consider that current low productivity or lack of adequate economic return is sufficient reason to rezone a site to residential especially where the evidence is that other key criteria for rezoning are not able to be achieved.

2.1.6 *Are urban design controls appropriate?*

141. We received evidence on several requested sites for residential zoning on the basis that adverse visual and rural character effects could be mitigated by urban design controls, such as height limits, green space and reflectivity of cladding and roofs. Evidence on this basis was received from Mr Forsyth, landscape expert, for a number of submitters and was also addressed by Mr McKinlay for DCC. Urban design controls were also requested by submitters or further submitters, often nearby landowners and residents.
142. This matter was addressed both in the section 42A report and by Ms Christmas in reply. Mr Morrissey noted that the 2GP does not currently provide for additional design controls within residential areas. His view was that in general such controls are not appropriate as they tend to focus on preserving the amenity of a small number of neighbours. He suggested that if zoning is dependent upon these controls to protect wider landscape amenity values, a decision must be made up front as to whether it is appropriate to rezone these areas. He also noted that if we were to include such controls they would need to be supported by additional policy and assessment guidance being added to the Plan provisions and that work had not been done.
143. Ms Christmas agreed with that evidence and further noted that a section 32 assessment must consider the administrative costs of such provisions, including enforcement, compared to the benefits. These administrative costs are partly ratepayer funded. Where the benefit is localised to a small number of neighbours, it is unlikely to exceed the costs, and is an inefficient approach to management.
144. We have reflected on the evidence of the reporting officers, and record that we agree with it in principle. As a general proposition, if an area is to be rezoned for residential development, the effects should be such that bespoke types of urban design controls will not be necessary. We have applied this reasoning when considering individual sites.

2.1.7 *Impacts of urbanisation and pets on wildlife*

145. A number of submitters on various greenfield sites raised concerns that an increase in residential activity would result in an increase in pets (most notably cats), which would have a negative impact on indigenous fauna in the area. Submitters also raised broader concerns relating to the impacts of urbanisation, including loss of green space, impacts to indigenous flora and fauna, and effects development could have on various community groups working to protect and enhance biodiversity. Several of these submitters were focussed on development in Dunedin's North East Valley.
146. We received evidence on this matter from Mr Kelvin Lloyd, Wildland Consultants, as part of the section 42A report. Mr Lloyd's evidence agreed that increased residential development could increase the density of cats, and therefore predation on and disturbance of indigenous fauna. Mr Lloyd recommended that consideration could be given to prohibiting keeping cats on future residences within the sites, or allowing cats only in secure areas that do not allow roaming.
147. In his opening statement, Mr Morrissey discussed this matter further. He noted that while it would be theoretically possible to include rules preventing or managing pets within a residential area, there is no existing policy framework in the 2GP to manage this. He noted that the majority of Council rules relating to pets across the country are implemented by bylaws. He also noted that some new subdivisions around the country have banned cats by

way of a consent notice on titles. Mr Morrissey advised that if we did wish to restrict pet ownership in greenfield areas, we would need to be satisfied that such a measure achieved section 32 of the RMA. Section 32 requires us to assess various options to ensure that the proposal is the most appropriate method to achieve the plan's objectives. The relevant Objective is 2.2.3 - protection of significant biodiversity.

148. After considering the advice received on this matter, we do not consider it appropriate to apply restrictions on pet or cat ownership in any of the greenfield sites through this variation. This would be out of step with management in existing zoned areas, and with no clear reason to have differing management regimes within urbanised parts of the City.
149. If DCC wish to consider restrictions on pet ownership, this is a matter that would best be addressed through a dedicated regulation review (considering both bylaw and plan method options) that involves appropriate community consultation and cost-benefit analysis.

2.2 Broad submissions on greenfield rezoning

150. This section of the report deals with the broad submissions, which are addressed in section 5.1 of the section 42A report for Hearing 4.

2.2.1 Submissions regarding structure plan mapped area vegetation clearance rules

151. This section addresses the submissions covered in section 5.1.1 of the section 42A report.
152. The *Dunedin City Council (S187.029, S187.030, S187.031)* sought to amend Change GF08 (Main South Road), Change GF10 (Honeystone Street) and RT22 (Selwyn Street) to amend the proposed vegetation clearance rules in the following structure plan mapped area performance standards:
 - Rule 15.8.AB for GF08;
 - Rule 15.8.AA for GF10; and
 - Rule 15.8.AC for RT22.
153. The amendments proposed are to remove the exception relating to the maintenance of fences for all three structure plans, and to amend the wording for GF08 and GF10 so that protection applies to all vegetation within 5m of water bodies and not just indigenous vegetation. The changes proposed are to improve clarity, promote consistency with similar provisions in the rest of the plan and correct errors in the proposed drafting.
154. The *ORC (FS184.535)* opposed the *DCC (S187.031)* submission and sought not to amend Change RT22 because it considered that the proposed stormwater management provisions of Variation 2 are not appropriate for the Lindsay Creek catchment.
155. *Tim Hyland (FS241.3)* supported the *DCC (S187.031)* submission as he considered that changes to Rule 15.8.AC would better protect biodiversity.
156. In the section 42A report, Mr Morrissey considered that the amendments proposed by the DCC will result in clearer and more appropriate vegetation clearance rules. He recommended that, if changes GF08, GF10, and RT22 are adopted, the amendments proposed should also be adopted.

2.2.1.1 Decision and reasons

157. For the reasons given by the Reporting Officer, we accept the submissions by the *Dunedin City Council (S187.029, S187.030)* to amend the vegetation clearance rules in the following structure plan mapped area performance standards: Rule 15.8.AB for GF08 and Rule 15.8.AA for GF10. These changes are shown in Appendix 1 with the reference 'Change GF08/S187.029' and Change GF10/S187.030' respectively.
158. We reject the submission by the *Dunedin City Council (S187.031)* to amend the proposed vegetation clearance rules in the structure plan mapped area performance standards for RTZ2 (Rule 15.8.AC), as our decision is not to rezone RTZ2 (see section 2.3.11.2).

2.2.2 General submissions on greenfield rezoning

159. This section addresses the submissions covered in section 5.1.2 and 5.1.3 of the section 42A report.
160. A number of submissions were received in general support of the greenfield rezoning aspects of Variation 2. For example, *Mark Geddes (S128.011)* supported rezoning greenfield areas to General Residential 1, *Waka Kotahi (NZ Transport Agency)* generally submitted in favour of Variation 2 and *Bill Morrison (S13.001)* also generally sought to retain all changes made in Variation 2. We note that the *ORC* opposed in part the majority of these original submissions, unless the amendments sought in the *ORC* submission were made. The *ORC* submission covered a broad range of topics, but in relation to the greenfield rezoning sites generally raised concerns relating to water quality, wastewater management, stormwater management, and hazards.
161. A number of submissions were received that opposed all new greenfield zoning for a variety of reasons. For example, *Ken Barton (S23.001)* submitted to remove all changes which extend residential zoning over greenfield land.
162. Other submissions were received (e.g. *Liz Angelo (S176.001)*) that supported the notified greenfield sites provided a number of criteria are met. We note that the *ORC* supported some of these submissions in part.
163. We note that none of the submitters appeared at the hearing to present evidence specifically on these broad submissions. However, we acknowledge these broad submissions and the arguments made by these submitters, which have been considered in our decisions on individual sites.

2.2.3 Application of NDMAs and associated infrastructure controls

164. This section addresses the submissions covered in section 5.1.4 of the section 42A report.

2.2.3.1 Submissions to remove the NDMA from greenfield rezoning sites

165. *Paterson Pitts Group (S206.013)*, *Terramark Limited (S220.004)*, *Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch (S282.012)*, and *Kurt Bowen (S300.006)* sought that the new development mapped area be removed from all greenfield rezoning sites or, if not removed, amendments are made to require the DCC to undertake a complete infrastructure modelling programme and change the new development mapped area provisions to specifically address identified constraints. These submissions were all opposed in part by the

ORC (FS184) as it considered the relief sought conflicted with the ORC's submission on the stormwater provision changes in Variation 2.

166. A large number of submitters sought to remove the infrastructure controls from all new greenfield areas, until the stormwater management plan provisions can be amended into a workable arrangement. These submissions were opposed also by the ORC (FS184).
167. A decision on the infrastructure aspects of the new development mapped area provisions with respect to stormwater was covered in Part C.4.4 of our first decision. Additionally, a decision on submission points that sought the removal of new development mapped areas from existing residential land was made in part C.4.9 of our first decision. These requests were rejected as we did not consider that the new development mapped area provisions were a significant hurdle for developers to overcome and were necessary to address potential environmental effects and achieve the 2GP's objectives.

2.2.3.1.1 Decision and reasons

168. We accept the reasoning in the section 42A report on this broad matter and accordingly reject the submissions that sought the removal of the new development mapped area requirements from greenfield areas. We agree that the NDMA provisions are appropriate to ensure that design and layout of subdivisions is undertaken appropriately and will achieve the Plan's strategic directions. In particular, the policies and assessment matters in relation to stormwater management that apply in NDMA areas, will ensure that stormwater is appropriately managed. This approach is consistent with our decision in part C.4.9 of our first decision.
169. We note that a number of submissions to remove NDMA's from specific sites were also received. Our decisions on those submissions are outlined in the individual site-specific sections of this decision.

2.2.3.2 Submission to add an NDMA to new greenfield residential rezoning sites

170. The DCC (S187.017) sought to apply a new development mapped area to any greenfield residential rezoning site added to the 2GP since notification of Variation 2 through the resolution of rezoning appeals.
171. The submission sought to ensure that all new greenfield areas are treated in a similar way and appropriate management of effects occurs. Some rezoning appeals were settled prior to us making decisions on the new development mapped area provisions, and so application of a new development mapped area was not possible.
172. This submission was opposed by the ORC (FS184.546).
173. Mr Morrissey provided a list of sites which had been rezoned since notification of the 2GP in the section 42A report. This was updated in Appendix 2 of his Reply, and consequential changes that may be required to the existing structure plans for some of the appeal sites should the DCC submission be accepted, were noted. These amendments were to delete provisions relating to stormwater management, and were recommended to ensure there is no duplication between the existing structure plan provisions and the new development mapped area provisions.

174. The final list of appeal sites Mr Morrissey recommended a new development mapped area be applied to were:

- 49 and 55A Riccarton Road East, East Taieri;
- 27 Inglis Street and Part 58 Ayr Street, Mosgiel;
- Part 636 North Road, Dunedin;
- 457 Highcliff Road, Dunedin;
- Part 135/145 Doctors Point Road, Waitati; and
- 41 Soper Road and 20-21 Henderson Street.

2.2.3.2.1 Decision and reasons

175. We accept the submission from the DCC (*S187.017*) and apply an NDMA to the sites above. In making this decision, we note that we were concerned at the broad nature of the DCC submission which taken literally would apply to unspecified sites. We requested prior to the commencement of Hearing 4, as part of Minute 12, that DCC might like to address us on the legal ramifications of that submission. Mr Garbett, counsel for DCC, considered that it is necessary to specify to which sites the submission applies, and we note that Mr Morrissey had since provided a list of sites as set out above. We accept Mr Garbett's advice that in terms of jurisdiction it is appropriate and valid to consider the merits of this submission as it relates to those sites. Consequently, we have applied an NDMA to the sites listed above.

176. We also note that as a consequential change, we have included these sites in Appendix 12C. This lists all sites to which an NDMA applies and was included in the Plan through our first decision on Variation 2.

177. In relation to Mr Morrissey's consequential changes, we are concerned that removing the structure plan provisions from the sites suggested might mean that, should an appeal be received on the application of the NDMA, these sites may have no appropriate rules in place until the appeal is resolved. Therefore, our decision is not to remove this content from the structure plans. We are satisfied that the structure plan rules identified, and the NDMA provisions, are not in conflict. We are therefore satisfied that this will not create any issues when subdivision and development consents are applied for.

178. These changes are shown in Appendix 2 with the reference 'Change NDMA/*S187.017*'.

2.2.4 3 waters infrastructure availability

179. This section addresses the submission covered in section 5.1.5 of the section 42A report.

180. *Cameron Grindlay (S60.005)* submitted in support of Variation 2, subject to 3 waters infrastructure being adequately funded so that it is able to support existing and new development. This submission was opposed by the *ORC (FS184.101)*.

181. Mr Morrissey recommended accepting the submission from *Mr Grindlay*, as he advised that 3 waters servicing has been considered as part of assessing a site's suitability for rezoning. He also noted that the 10 year plan includes funding for all costs associated with extending 3 waters servicing to the sites notified for rezoning in the section 32 report, and the majority of funding required for existing network upgrades across the city.

2.2.4.1 Decision and reasons

182. We accept in part the submission by *Cameron Grindlay (S60.005)*. We acknowledge Mr Morrissey's evidence that 3 waters servicing has been considered as part of assessing a site's suitability for rezoning and that budgetary provision has apparently been made to extend 3 waters servicing the sites notified (with the 'majority' of funding required for existing network upgrades). We do not consider this submission can be wholly accepted because the Panel can make no decisions as to Council funding of public infrastructure.

2.2.5 Public transport and roading network

183. This section addresses the submissions covered in section 5.1.6 of the section 42A report.
184. *Peter Dowden (S122.004)* and the *Bus Users Support Group Otepoti/Te Roopu Tautoko Kaieke Pahi ki Otepoti (S125.005)* sought that new greenfield zoning is only undertaken where new dwellings will be within 800m of a bus stop or 1200m of a high frequency bus stop. Mr Morrissey noted in the section 42A report that if a site can meet these distances it is classified as 'OK' in the site assessment sheets. A further submission from the *ORC (FS184.479, FS184.482)* supported both of these original submissions.
185. *Waka Kotahi (NZ Transport Agency) (S235.001)* supported the approach of 'filling gaps' across a wider area, as it reduces impacts on the roading infrastructure at specific points or locations.

2.2.5.1 Reporting Officer's recommendation

186. Mr Morrissey recommended rejecting the submissions from *Peter Dowden (S122.004)* and the *Bus Users Support Group Otepoti/Te Roopu Tautoko Kaieke Pahi ki Otepoti (S125.005)*, commenting that access to public transport is considered alongside the other criteria identified in Policy 2.6.2.1. He noted most, but not all, of the sites recommended for rezoned had 'OK' or better access to public transportation. He also advised that similar submissions were received from both submitters relating to public transport in intensification areas, and were dealt with in Part A.2.8 of our first decision report, where they were rejected.
187. Mr Morrissey recommended accepting the submission from *Waka Kotahi (S235.001)* and noted that a large number of proposed rezoning sites are relatively small areas, located close to, or within, existing residential developed areas.

2.2.5.2 Decision and reasons

188. We reject the submissions from *Peter Dowden (S122.004)* and the *Bus Users Support Group Otepoti/Te Roopu Tautoko Kaieke Pahi ki Otepoti (S125.005)*. The reasons for this are the same as outlined in our first decision report, primarily that the DCC does not have direct control over public transport networks in Dunedin and so cannot guarantee how these might change in the future (for the better or worse).
189. We also agree with Mr Morrissey that this is but one factor for consideration in the assessment of rezoning a site and should not be used as a 'knock out blow'.
190. We accept the submission from *Waka Kotahi (S235.001)* for the reasons given in the submission.

2.2.6 High class soils

191. This section addresses the submissions covered in section 5.1.7 of the section 42A report.
192. *Brian Miller (S110.003)* submitted opposing rezoning of any sites containing high class soils or productive land. The submission was supported by a further submission from the *ORC (FS184.481)*.

2.2.6.1 Reporting Officer's recommendation

193. In the section 42A report, Mr Morrissey noted that where sites have high class soils or LUC 1-3 land this is noted in the discussion for each individual site and the impact of this is considered along with other relevant considerations under Policy 2.6.2.1. Mr Morrissey said that, in some situations, the loss of high class soils must be balanced against the need to meet residential growth demand. Overall, he recommended that *Mr Miller's* submission was rejected.

2.2.6.2 Decision and reasons

194. We accept in part the submission from *Brian Miller (S110.003)*. In relation to high class soils. We consider this request is too broad to be accepted completely, and we note the presence of high class soils is a factor that has been considered (where relevant) when making a decision on rezoning.
195. In relation to productive land, we note that the National Policy Statement on Highly Productive Land (NPS-HPL) came into effect on 17 October 2022. This was after Mr Morrissey made the above recommendation in the section 42A report. We discuss the impact of the NPS-HPL on our decision in section 3 below. We note that under the NPS-HPL, residential rezoning of highly productive land is restricted in all but very limited circumstances.

2.2.7 Other infrastructure

196. This section addresses the submissions covered in section 5.1.8 of the section 42A report.
197. *Transpower New Zealand Limited (S28.001)* submitted in support of the notified rezoning sites, but sought they are not located closer to the National Grid. A further submission from the *ORC (FS184.75)* opposed this submission on the grounds it conflicted with their position on stormwater provisions.
198. *Transpower New Zealand* provided a tabled statement at the hearing, where it confirmed its support of the recommendations given in the section 42A report and did not wish to be heard further in relation to its submission⁵.

2.2.7.1 Reporting Officer's recommendation

199. In the section 42A report, Mr Morrissey noted that some minor extensions are proposed to some of the originally notified sites but that none of these extensions are located within the National Grid Subdivision Corridor Mapped Area. In addition, he also advised that for the

⁵ Letter from Transpower, 12 August 2022. [Tabled letter from Transpower New Zealand \(dunedin.govt.nz\)](https://www.dunedin.govt.nz/infrastructure/infrastructure-reports/infrastructure-reports-2022/infrastructure-reports-2022-12-august-2022)

Requested Sites he had engaged with Transpower and confirmed that none of the sites are near the National Grid.

2.2.7.2 Decision and reasons

200. We accept in part the submission from *Transpower New Zealand (S28.001)*, and we note their support of the notified rezoning sites.

2.2.8 Provision of green space

201. This section addresses the submission discussed in section 5.1.9 of the section 42A report.
202. *John and Christine Burton (S8.002)* submitted in support of changes to increase the density of housing within Dunedin, including new greenfield zoning, provided green spaces are maintained. A further submission from the *ORC (FS184.75)* opposed this submission on the grounds that it conflicts with their position on stormwater provisions.
203. We also note here the submission made by *Yolanda van Heezik (S82)* in relation to a number of specific sites. This submission sought, broadly, to retain biodiversity areas including gardens and landscaping, within new development. We note that in our first decision we made a number of amendments (see 'Change A2 Alt 3 IN-LANDSCAPE/S82.004 and others') in response to *Ms van Heezik's* submission, including requiring minimum landscaping for new General Residential 2 areas.
204. Mr Morrissey advised in the section 42A report that rezoning sites to General Residential 1 density or lower did not justify the same minimum landscaping requirements as applied General Residential 2 areas. He stated this was because General Residential 1 areas are less built up and more likely to have garden areas and trees relative to the higher density General Residential 2 areas.

2.2.8.1 Decision and reasons

205. We accept in part the submission from *John and Christine Burton (S8.002)* and note that our decision on individual sites is contained within the next section of our decision report.
206. With respect to the submission from *Ms van Heezik*, we agree with the Reporting Officer that sites being rezoned to General Residential 1 have less need for minimum landscaping requirements than for General Residential 2 sites and that it is not necessary or appropriate to apply the minimum landscaping requirements to sites being rezoned to a General Residential 1 or lower density. We therefore reject *Ms Van Heezik's* submission as it relates to these sites, which are GF02, GF06, and GF07. We note that this submission also applies to GF08, but given this site is being rezoned to General Residential 2, we address her submission as it may be applied to that particular site in the individual site section.

2.2.9 Miscellaneous submissions

207. This section addresses the submissions covered in section 5.1.10 of the section 42A report.
208. The *Dunedin City Council (S187.008)* made a general submission to consider the need for additional Plan provisions to better manage any adverse effects identified through submissions. This request was considered by the Panel as appropriate by way of general application for us when considering submissions on proposals in Variation 2.

209. *Michael McQueen (S252.003)* sought to retain the current General Residential 1 zoning of 96 Somerville Street. We note as the zoning of 96 Somerville Street is not being reviewed through Variation 2, this submission is out of scope. In any case no decision on this submission is required as it doesn't seek a change to the existing zoning.

2.3 Sites

210. This section of the report deals with site-specific submissions, which are addressed in sections 5.2 – 5.4 of the section 42A report for Hearing 4. Sites are grouped by geographic area.

2.3.1 Abbotsford

2.3.1.1 Freeman Close and Lambert Street, Abbotsford (RS14)

211. RS14 is located north of Abbotsford, at the end of North Taieri Road. RS14 comprises two discrete parts, a smaller (6.6ha) area to the west (42A Lambert Street) and a larger area (48ha) to the east (consisting of 25 McMeakin Road, 45 Mc MeMeakin Road, 55 McMeakin Road, and part 188 North Taieri Road). Both sites are adjacent to existing residentially zoned land, and a small part of the western site lies adjacent to the main railway line. The Dunedin Airport Flight Fan overlays the majority of RS14. If the entirety of RS14 was to be rezoned to General Residential 1, Mr Morrissey advised that the site would have an estimated feasible capacity of 761 dwellings.
212. The section 32 report notes the site was originally rejected for inclusion in Variation 2 as there were significant natural hazard risks identified.

2.3.1.1.1 Submissions received

213. *Bill Hamilton (S298.001)* submitted to rezone 25 McMeakin Road to General Residential 1.
214. *Alan David and David Eric Geeves & Nicola Jane Algie (S302.001)* submitted to rezone 55 McMeakin Road to General Residential 1.
215. *Nash and Ross Ltd (Steve Ross) (S281.001)* submitted to rezone 42 Lambert Street (now 42A Lambert Street) to General Residential 1.
216. *Wendy Campbell (S228.003)* submitted to rezone 45 McMeakin Road and part of 188 North Taieri Road to a mixture of residential zones in accordance with a proposed structure plan.
217. Several further submitters supported one or more of the submissions seeking rezoning. Reasons given by these further submitters included that rezoning would enable more housing, the majority of services are in place, and that the land is well suited for residential use.
218. A large number of further submitters opposed one or more of the submissions seeking rezoning. These further submissions outlined concerns relating to waters, transport and traffic safety, natural hazards, loss of rural character, loss of amenity, impacts to biodiversity, lack of infrastructure and servicing in Abbotsford, the potential for reverse sensitivity, and general concerns regarding additional population growth.

2.3.1.1.2 Submitters' response to the section 42A report

219. All four of the original submitters seeking rezoning appeared, or were represented, at the hearing.
220. Mr Kurt Bowen appeared on behalf of *Nash and Ross Ltd (Steve Ross)*, in relation to 42A Lambert Street. He also appeared and presented evidence on behalf of *Alan David and David Eric Geeves & Nicola Jane Algie* and *Bill Hamilton*, who sought to rezone 25 and 55 McMeakin Road.
221. Mr Bowen presented two possible structure plans for our consideration. The first of these considered a broad area of new General Residential 1 zoning which spans the properties at 25, 45 and 55 McMeakin Road along with part of 188 North Taieri Road (i.e. this would also cover part of *Ms Campbell's* site). This would have a realistic yield of 327 sites. The second structure plan considered a much smaller extent of General Residential 1 zoning that covers all of 25 McMeakin Road, and a portion of the property at 55 McMeakin Road. The anticipated realistic development yield from that is 35 sites.
222. Ms Peters appeared on behalf of *Wendy Campbell*. She supported the larger of the two structure plans outlined above, being the one covering the properties at 25, 45 and 55 McMeakin Road along with part of 188 North Taieri Road. In addition, she said *Ms Campbell* seeks that a Residential Transition Overlay Zone (RTZ) releasing to Low Density Residential Zone is applied to a separate part of 188 North Taieri Road. This RTZ would have a custom release rule requiring positive geotechnical investigations to be conducted, and the funding of the necessary upgrades to North Taieri Road being included in the DCC's 10 year plan.
223. Mr Gerard Hyland and Mr Brent Irving both appeared on behalf of the Dunedin Tunnels Trail Trust and supported the proposed rezoning of *Ms Campbell's* land. They noted that the Trust is currently in the process of negotiating an easement for access to *Ms Campbell's* land for the trail.
224. Five further submitters spoke at the hearing, all in opposition to the proposed rezoning. These were *Jennifer Robinson*, *Roger Bailey (The Bailey Family Trust)*, *John Rawling*, *Gerald Finn*, and *Elizabeth Lukeman*. Their evidence is discussed in relation to the topics outlined below.

2.3.1.1.3 3 waters

Potable water supply

225. DCC 3 Waters provided an assessment of the site in the section 42A report. In terms of water supply, they advised there is inadequate capacity and significant upstream network upgrades would be required to resolve these, over a medium to long term timeframe. Pumping would be necessary at higher elevation areas.
226. Ms Peters considered that issues relating to potable water supply could be dealt with under the new development mapped area provisions, along with structure plan provisions if necessary.
227. Mr Bowen, on behalf of *Nash and Ross Ltd (Steve Ross)*, commented that it appears to be relatively straight-forward to extend the existing watermain network into 42A Lambert Street.

228. In relation to 55 and 25 McMeakin Road, Mr Bowen commented that the servicing of this land for water supply and firefighting appears straight forward. If the broader rezoning area were to be implemented, there may also be a need to provide additional water storage volume at the DCC tank, but this is considered feasible as part of the future development.
229. Mr Oliver and Mr Saunders reviewed the submitters' evidence relating to potable water supply and maintained their original position that rezoning is not supported. They agreed that the extension of water supply into 42A Lambert Street appears relatively straight forward. In terms of the submitters' smaller structure plan proposal (covering 25 and 55 McMeakin Road), while this would address concerns regarding water pressure, a significant portion of these two properties are within the high hazard areas of the Mt Grand Raw Water Reservoir Dam Break Hazard Zone and rezoning in this area is not supported.

Wastewater

230. DCC 3 Waters provided an assessment of the site in the section 42A report. Wastewater pumping would be required to service some areas and pump station capacity would probably need to be increased. Some downstream network upgrades would be required.
231. Ms Peters considered that issues relating to wastewater could be dealt with under the new development mapped area provisions, along with structure plan provisions if necessary.
232. Mr Bowen, on behalf of *Nash and Ross Ltd (Steve Ross)*, acknowledged that wastewater pumping would be required for 42A Lambert Street, given the site is located approximately 7m below the existing pumping station.
233. In relation to 55 and 25 McMeakin Road, Mr Bowen acknowledged that upgrades to the existing foul drainage network pumping station may be required, but considered that this was achievable.
234. Mr Oliver and Mr Saunders reviewed the submitters' evidence relating to potable water supply and maintained their original position that rezoning is not supported. In particular they highlighted that the rezoning 42A Lambert Street is not supported due to the need for wastewater pumping.

Stormwater

235. At the hearing, a number of the further submitters raised issues relating to stormwater and flooding. *Jennifer Robinson* said that development could damage existing properties, particularly with respect to stormwater run-off. *John Rawling* also raised concerns relating to the flooding of Abbots Creek, and that this flood risk will be elevated through further development.
236. The 3 Waters evidence as set out in the section 42A report was also concerned with downstream flooding. They advised that neighbouring properties have repeatedly contacted the DCC and raised concerns about flooding, particularly as it relates to increasing development in the catchment. DCC 3 Waters advised that while stormwater would need to be managed in accordance with the new development mapped area requirements, there is still significant risk to downstream landowners if watercourses are not properly maintained.
237. Ms Peters, on behalf of *Wendy Campbell*, anticipated that a new development mapped area, in conjunction with structure plan performance standards, could manage stormwater issues. She noted that on-site stormwater detention should be required via structure plan controls.

238. Mr Bowen, on behalf of *Nash and Ross Ltd (Steve Ross)*, said that some on-site stormwater detention would be required, either by way of individual site tanks, or through a communal stormwater detention pond. In relation to 55 and 25 McMeakin Road, he agreed that on-site stormwater detention is very likely, but considered this could also be provided by either on-site tanks or via a communal stormwater detention pond.
239. Mr Oliver and Mr Saunders responded to the evidence provided by submitters and maintained their original position that rezoning is not supported. They further outlined that there is still a significant risk to downstream landowners if watercourses are not properly maintained. The use of individual on-site storage tanks for stormwater management is a cause for concern, and likewise the potential for the raising of land (at 25 and 55 McMeakin Road) to mitigate flood risks is also of concern as it may result in the displacement of flood water that would otherwise have occupied the space taken by the raised land, and can increase the flood hazard and risk in other locations.

2.3.1.1.4 Transportation

240. Multiple further submitters raised issues relating to access and transportation. *Jennifer Robinson* spoke at the hearing and noted that a wider thoroughfare is needed on North Taieri Road. *Gerald Finn* also discussed issues with North Taieri Road, and in particular concerns about the impacts to Abbotsford School. *Roger Bailey (The Bailey Family Trust)* spoke at the hearing and raised concerns relating to transportation and the suitability of the proposed access into 42A Lambert Street which runs past his house.
241. DCC Transport's assessment in the section 42A report was that, since the site is located at the end of North Taieri Road, a large proportion of traffic would be required to travel the full length of the road when entering and leaving the site, and further assessment of the impact on downstream intersections was required. However, it was anticipated that the level of development is likely to create unacceptable pressure on North Taieri Road and the wider transport network. A development of this scale would require construction of additional connection points to other parts of the transport network. DCC Transport also noted that it is unlikely that the structural integrity of North Taieri Road would be able to accommodate the additional traffic loading. Overall, rezoning was not supported from a transportation perspective.
242. Mr Bowen discussed transportation related to 42A Lambert Street. He highlighted that rezoning this site alone would result in a far lower number of sites compared to if the entirety of RS14 were to be rezoned. He considered that the additional traffic generated would be minor, and any upgrades required minor in nature.
243. For 55 and 25 McMeakin Road, Mr Bowen considered that if the smaller structure plan option was adopted, the adverse effects are likely to be minor. If the larger structure plan option were adopted, Mr Bowen proposed construction of a new section of road as an extension to Abbots Hill Road in order to provide a secondary connection point. This road would link the Abbotsford and Brockville communities. A plan outlining this was attached to the submission and Mr Bowen considered that the costs of this were likely to be feasible.
244. Ms Peters, on behalf of *Wendy Campbell*, also supported the proposed upgrading of Abbots Hill Road and also noted that an Integrated Transport Assessment would be necessary at the time of subdivision.

245. In his response to submitter evidence, Mr Watson of DCC Transport considered that both the site specific/local issues identified in the original transport assessment, along with the wider concerns, remain. All of the proposals would still result in a considerable increase in traffic using North Taieri Road, and therefore the downstream effects on the network and related junctions would remain, and haven't been adequately addressed in the submitters' evidence. Mr Watson questioned how practical and achievable the proposed Abbots Hill Road extension would be to implement. He noted that such an extension would require significant engineering works, and without detailed information being provided including the effects of the proposed link roads provision on connectivity (including the traffic flows between Abbotsford and Brockville), the proposal was not supported. Consequently, Mr Watson was unable to support the proposed rezoning. He also noted that if the sites were to be developed, this would need to be done comprehensively and not in a piecemeal way.

2.3.1.1.5 Hazards

246. A key issue relating to the site is hazards. The section 42A report outlined that, while there are no mapped 2GP hazard overlays, the site is located north and west of the historic Abbotsford landslides and was assessed by Stantec as having high level hazards associated with slope instability and a precedent for land instability within similar geology and slope angles nearby. There are also several medium level hazards associated with stormwater.
247. At the hearing, *Roger Bailey (The Bailey Family Trust)*, *Gerald Finn*, and *Elizabeth Lukeman* all discussed hazards, and specifically raised concerns about the insufficient hazard information provided to date, along with the area's extensive history of mining.
248. *Ms Campbell* provided a report from GeoSolve as part of her submission. Stantec reviewed this report and, overall, advised us that the original assessment that the site is high risk is still appropriate, and significant subsurface investigations would be required for development of the site.
249. Mr Bowen considered that the hazard issues on 42A Lambert Street are less pronounced than in other parts of the wider RS14, and that flooding risk is an issue that can be addressed at the time of future development.
250. In relation to 55 and 25 McMeakin Road, Mr Bowen noted, based on the geotechnical assessment from GeoSolve for *Ms Campbell*, that while the assessment doesn't cover the properties in question, the submitters have inferred that these areas are sound from a ground stability perspective. Mr Bowen noted that it is reasonable that DCC requires further geotechnical investigation as part of any future resource consent application process. With respect to the flood hazard, Mr Bowen noted that the proposed structure plan has designed an 'amenity reserve' area to cover these areas of hazard.
251. Ms Peters, on behalf of *Wendy Campbell*, clarified that large areas (identified in light grey) identified in the geotechnical assessment "...appear to be relatively straightforward for residential development...". Ms Peters suggested that structure plan provisions would require further geotechnical investigations at the subdivision design stage.
252. In response, Mr Paterson of Stantec commented that the properties at 25, 45, and 55 McMeakin Road appear suitable for the proposed rezoning from a hazards perspective, although further investigations are likely to be required via the resource consent process. However, Mr Paterson did not consider that 42A Lambert Street is suitable for rezoning based on historic mining hazards. Mr Paterson noted that the GeoSolve report did not

address 42A Lambert Street, and that the statement from Mr Bowen that "... the hazard issues on this part of RS14 are considerably less pronounced..." appears to be unsubstantiated and there is no engineering assessment provided to support this. Mr Paterson considered that in the absence of a site specific assessment, and inferring mining extents from the GeoSolve report, it is possible that the site of 42A Lambert Street is situated in the worst part of the mining hazard area.

253. DCC 3 Waters also advised that the eastern and south-western sides of the site are within the Mt Grand Raw Water Reservoir Dam Break Hazard Zone. Future development should either be avoided in this area, or mitigation would be required.

2.3.1.1.6 Rural character and landscape

254. *Elizabeth Lukeman* attended the hearing and outlined her concerns relating to loss of the character of Abbotsford.
255. Mr McKinlay assessed the proposed rezoning and considered that the effects of rezoning on rural character values would be variable, depending on the area being considered, but range from low up to high. There would likely be some visual amenity effects on nearby properties.
256. Ms Peters and Mr Bowen generally agreed with Mr McKinlay. Ms Peters also outlined proposed structure plan performance standards to control built form with respect to height, gross floor area, colours and materials.
257. Mr McKinlay considered that the design controls proposed for 45 McMeakin Road and 188 North Taieri Road would not be sufficient to mitigate the adverse effects on rural character. With respect 55 McMeakin Road, he considered that for the larger rezoning proposal there will result in high adverse effects on existing rural character values along with adverse visual amenity effects. With respect to the smaller rezoning proposal, adverse effects on wider rural character values would be in the low to moderate range. With respect to 25 McMeakin Road, adverse effects on visual amenity and rural character values are likely to be lower.

2.3.1.1.7 Amenity

258. Several submitters raised concerns regarding general loss of amenity, including air and noise pollution, shading, and loss of privacy. *Elizabeth Lukeman* attended the hearing and spoke to some of these concerns.
259. In the section 42A report, Mr Morrissey acknowledged there would be impacts to existing residents, particularly during construction. He commented that existing 2GP performance standards would help manage disruption in the same way as for any areas being developed for housing.
260. The section 42A report also indicates that, should rezoning proceed, DCC Parks and Recreation recommend a recreation reserve of at least 5,000m² in area be provided within RS14.

2.3.1.1.8 Biodiversity

261. Several further submitters were opposed to the rezoning on the grounds of impacts on biodiversity, particularly in relation to native birds and loss of habitat in the area. *Elizabeth Lukeman* attended the hearing and raised concerns regarding the potential impacts to native biodiversity.

262. Mr Morrissey advised that a desktop assessment of vegetation cover had not identified any significant indigenous vegetation on the site. While he acknowledged it is likely that some native birds reside in the area, he did not expect the site to provide a significant habitat, and overall considered the biodiversity values at the site to be low.

2.3.1.1.9 Other issues

263. Further submitters raised a number of additional concerns as outlined in the section 42A report. We note the responses to these issues from Mr Morrissey, and that in general, Mr Morrissey did not consider the additional issues are sufficient reason to reject the rezoning.

2.3.1.1.10 Rural productivity

264. The site is classed as Land Use Capability Class (LUC) 3. We note that, while not an issue that further submitters specifically raised for this site, part way through our deliberations the National Policy Statement for Highly Productive Land (NPS-HPL) was released and came into effect. Mr Morrissey, in his response to Minutes 15, 16 and 17 from the Panel, advised that 98% of this area covered by the submitters requests meets the interim definition of highly productive land (HPL).
265. Due to the timing of the NPS-HPL, and for the sake of clarity, we have chosen to undertake an analysis of the NPS as a separate part of our decision and to focus on whether the consideration of it changes any of our conclusions and decisions. This analysis is given in section 3 of this decision. We note that the analysis in that section has not materially changed our overall decision on the rezoning of this site.

2.3.1.1.11 Reporting Officer's recommendation

266. In his Reply, Mr Morrissey noted the significant amount of evidence provided by the submitters in respect to this site. However, he did not consider that the proposed rezoning, either of the site as a whole, or when considering the separate submission area, was consistent with Policy 2.6.2.1. This was primarily based on the transport and 3 waters evidence received, as well as hazard issues in relation to 42A Lambert Street.
267. With respect to Ms Peters' proposal for an RTZ over part of 188 North Taieri Road, he re-emphasised the concerns identified by Mr Watson, Mr Oliver, and Mr Saunders. In particular, he noted that Mr Watson's concerns with North Taieri Road remained, and he also noted that issues in relation to servicing the site for the 3 waters remain and, on balance, he did not support the proposal for an RTZ.

2.3.1.1.12 Decision and reasons

268. We reject the submissions of Bill Hamilton (S298.001), Alan David and David Eric Geeves & Nicola Jane Algie (S302.001), Nash and Ross Ltd (Steve Ross) (S281.001), and Wendy Campbell (S228.003) to rezone RS14. Consequently we also reject the further submissions in support of the submissions seeking rezoning. Our reasons for rejecting the submissions are based on several of the issues that were canvassed at the hearing which collectively lead us to conclude that these sites, in this area, are not an appropriate option for providing for future residential growth, noting that we are also not persuaded that further growth is required in this area.
269. We adopt the evidence of Mr Watson that North Taieri Road is unlikely to be able to accommodate the additional traffic loading. We also accept his evidence that an alternative

access into this site will be required, given the large number of proposed lots. We note that Mr Bowen and Ms Peters suggested that to address this a connection could be provided along the paper road end of Abbotts Hill Road. However, there was limited cost or feasibility evidence presented for this option and we are not convinced that the proposed Abbotts Hill Road formation is feasible.

270. We consider it possible that a significantly smaller area of rezoning may have fewer transportation issues. However, we heard no specific expert evidence to support that conclusion. The only expert transportation evidence we had before us urged us to be cautious about the transportation effects of rezoning any of this land.
271. At a more strategic level, we consider the proposed upgrade to Abbotts Hill Road of the scale proposed would be a significant undertaking and would have broad public interest. In our view this would take the rezoning requests outside of the ambit of an 'easy wins' variation as there may be much higher level effects on the broader community that have not been considered, and natural justice requires that an open process is followed. We consider that proposals of this scale are more appropriately considered through a Future Development Strategy (FDS) if this area were to be considered as being required for future growth.
272. We agree with the evidence from Mr Paterson, that rezoning 42A Lambert Street is not supported by the available evidence on hazards. Rezoning an area with a high natural hazards assessment is contrary to Policy 2.6.2.1.d.viii. For the other areas of the RS14 site, we accept Mr Paterson's evidence that these can be supported from a hazards perspective.
273. We adopt the evidence from Mr Oliver and Mr Saunders that significant water supply upgrades would be required to service this area, and that pumping would be required, which is contrary to DCC's goals of reducing the carbon footprint of the 3 waters network. We also agree with Mr Oliver and Mr Saunders regarding stormwater flooding risk, and their ongoing concerns relating to development in the high hazard area of the Mt Grand Raw Water Reservoir Flood Area. We accept the evidence of Mr Oliver and Mr Saunders that rezoning the site, both in part and as a whole, is not supported from a 3 Waters perspective.
274. With respect to rural productivity and the cumulative loss of productive rural land, which was a broad issue raised by Mr Miller and discussed in section 2.2.6, we note the NPS-HPL requires much greater attention to this issue, and we discuss this in section 3. This has not materially changed our decision with respect to the rezoning of this site however.
275. With respect to Ms Peters' proposal to apply an RTZ to part of 188 North Taieri Road, we understand that further investigations into hazards matters is not something that an RTZ can be used for, and further given that we find the site inappropriate for rezoning, an RTZ is inappropriate.
276. Overall, it is our view that the site, both as a whole and also in its various parts, does not satisfy or align well with the criteria outlined in Policy 2.6.2.1 and is therefore not appropriate to rezone to residential as part of this process.

2.3.2 Allanton

2.3.2.1 Part 774 Allanton - Waihola Rd, Allanton (RS195)

277. This section addresses the submissions covered in section 5.4.18 of the section 42A report.

278. RS195 is a 55.2ha site, currently zoned Rural Taieri Plain and surrounded by other Rural-zoned land (both Taieri Plain and Coastal). The site is located close to, but does not directly adjoin, Allanton Township and Settlement zoning, to the north of SH1. A small area of the site to the north is covered by a Hazard 1A (flood) Overlay Zone, and there are several areas of the site that are subject to a Hazard 1 (flood) Overlay Zone. A small part of the site lies within the Lower Taieri Flood Protection Scheme. The majority of the site lies within the Dunedin Airport Flight Fan.
279. The section 42A report notes the site was rejected in the section 32 report because some parts of the site were identified as being at high risk of flooding (and are subject to a Hazard 1 Overlay). In addition, there is existing residential capacity in Allanton, and rezoning would not support the compact form/city policies. The site also ranked poorly in relation to likely carbon emissions derived from commuting.

2.3.2.1.1 *Submissions received*

280. *DDS Properties (2008) Limited (S242.001)* sought to rezone the majority of the site to Township and Settlement Zone, with a smaller area of Large Lot Residential 1 and to apply a structure plan mapped area rather than a new development mapped area. A draft structure plan for the site was supplied with the submission along with a landscape assessment with approximately 245 – 376 dwellings. Residential activity is intended for the ridge areas, outside of the Hazard 1 (flood) Overlay Zone.
281. The *ORC (FS184.59) and others* opposed the rezoning due to concerns about the natural hazard risk and stormwater and wastewater management.
282. *Susan Alanna Browne (FS233.1) and others* opposed rezoning due to concerns about loss of productive land, biodiversity and rural character and amenity, including impacts on privacy and quality of life, effects on 3 waters infrastructure and existing services, increased traffic congestion and disruption from development adjacent to their existing property.

2.3.2.1.2 *Submitters response to the section 42A recommendations*

283. Mr Paul Rogers, a Director for *DDS Properties Limited*, outlined his vision for the site at the hearing. This included around 9km cycling/walking tracks through native plantings, a potential extension to the rail corridor alongside the Taieri River, low light emission/pollution through strategic placement of street lighting, a common building overlooking wetlands offering work from home office spaces and hot desks and the possibility for a small café and native plantings throughout the development. He noted that his proposal would encourage entry level housing for younger people, families and older people as he noted that locals wanted to stay in the area, but housing is limited.

2.3.2.1.3 *Landscape, rural character and biodiversity*

284. Some further submitters opposed the development due to loss of biodiversity and rural character and amenity, including impacts on privacy and quality of life.
285. Mr Hugh Forsyth, landscape architect for *DDS Properties (2008) Limited*, in evidence considered that rezoning would lead to a positive change of character over the medium term, given the extent of proposed planting, wetland and riparian protection and enhancement. He considered a general change from mostly open rural pastoral landscape to a rural/residential character of development and vegetation that would continue to develop and further define the eventual character of this landscape. He assessed the visible

effect as 'moderate-high' in the short term and 'moderate-low' in the medium to long term on the basis of present public site visibility from SH1, as visibility effects will be reduced as the project develops.

286. In response, Mr McKinlay (DCC Landscape Architect) considered that while the visual change in character would be pronounced, the perception of this change would be largely restricted to the immediate surrounding area, including the approaches to the site on SH1. Overall, he considered the proposed rezoning would adversely affect existing rural character values to at least a moderate extent.

2.3.2.1.4 *Transport*

287. Several further submitters opposed rezoning due to concerns about increased traffic congestion.
288. Ms Peters, appearing for *DDS Properties (2008) Limited*, in her planning evidence considered the roads were capable of absorbing the additional traffic volume resulting from development. In a memorandum appended at Appendix 5 of Ms Peter's evidence, Mr Grant Fisher of Modal Consulting Limited provided preliminary design parameters for the intersection of the site road with SH1.
289. Ms Peters noted that any transport infrastructure upgrades, such as to the slip lane into the site from Centre Road and roading and pedestrian and cycleways within the site would be paid for by the developer, with the roading infrastructure vested with the Dunedin City Council.
290. Mr Paul Rogers noted that he had discussed the potential for rail connectivity with the site with NZ Rail. We queried Mr Rogers about the timing for any potential rail connectivity and he acknowledged discussions were in their early stages.
291. Mr Watson, for DCC Transport, said he did not support rezoning R195. He considered the site is in an unsustainable location from a traffic point of view and discussion of any potential rail access is in its early stages. If the site were to be developed, access via a roundabout would likely be required. This would require discussion with and agreement from *Waka Kotahi*.
292. In response to a request for further information, Mr Fisher considered that *Waka Kotahi's* concerns in relation to the safety and efficiency of access to RS195 could be addressed through appropriate intersection controls at the intersections of SH1/SH86 and SH1/Grey Street. This could be dealt with via a performance standard attached to the structure plan requiring either affected party consent from *Waka Kotahi* at the time of subdivision, or in the absence of affected party consent being provided, that *Waka Kotahi* receives limited notification of an application for subdivision.

2.3.2.1.5 *3 waters*

293. Several submitters opposed rezoning due to concerns about 3 waters infrastructure.
294. Ms Peters noted that the areas proposed to be zoned Large Lot Residential could be self-serviced with respect to wastewater. For the Township and Settlement zone she noted that treated wastewater could be discharged to a constructed wetland within the site, located out of any mapped flood hazard area, or be pumped via the existing reticulated wastewater system in Allanton, with the ability for the treated wastewater to be held to be pumped at

off-peak times. She noted that Allanton is self-serviced with respect to potable water, and she considered this is a feasible solution for this development. Stormwater would be detained from roof surfaces to tank for use as potable water. Overflow from tanks and stormwater from impermeable surfaces would be attenuated as shown in the structure plan. She anticipated that performance standards attached to the structure plan would require a stormwater management plan be provided at the time of subdivision.

295. DCC 3 Waters, through the evidence of Mr Saunders and Mr Oliver, considered RS195 a risky site from a 3 Waters perspective. Allanton is self-serviced for potable water but there are concerns about the adequacy of the water supply. Additionally, DCC 3 Waters considered that the submitter's proposal did not provide for water capacity for firefighting. Wastewater and stormwater servicing could be expensive and technically challenging. If wastewater disposal occurs on-site, a large area may be required, and if it is conveyed using the existing reticulated system, the rising main to the Mosgiel Wastewater Treatment Plant (WWTP) may not have capacity for the additional volumes. It also noted there is no stormwater network in the area, the site is adjacent to the Taieri River, and parts of the site are in a Hazard 1 (flood) Overlay Zone which require further investigation.
296. In his Reply Report, Mr Morrissey further outlined the 3 Water servicing situation in Allanton. Based on advice from 3 Waters, he noted that wastewater is serviced by a pressure sewer scheme, which requires a pumping unit installed at each property, which is pumped into the pressure sewer network to the Mosgiel WWTP. He noted there is some capacity in this scheme for additional flows. There is no 3 waters stormwater network in Allanton, and stormwater flows through open channel drains alongside roads and through culverts under roads, generally in a northwest direction, under the railway line to the Taieri River.

2.3.2.1.6 Hazards

297. Several submitters opposed rezoning due to concerns about flooding.
298. Mr Morrissey in the section 42A report considered there may be a high risk from flooding, as evidenced by the Hazard 1 (flood) Overlay Zone over large parts of the site. Residential development is a non-complying activity within this overlay. There is also a small area to the north of the site, adjacent to the Taieri River, which is covered by a Hazard 1A (flood) Overlay Zone. Residential development is a prohibited activity in a Hazard 1A (flood) Overlay Zone.
299. In her evidence, Ms Peters noted that no development is proposed in the Hazard 1A Overlay Zone.
300. In a geotechnical assessment for the *DDS Properties (2008) Limited*, Mr Mark Walrond of Geosolve considered there were no significant problems with developing the site for residential use. He also considered that the risk from the flood hazard had been addressed and that further detailed work would be provided at the time of subdivision.
301. In his response, Mr Paterson from Stantec noted that he had not previously reviewed this site. However, he had reviewed the nearby site RS200, which has similar geology and constraints. He noted RS195 is closer to the Taieri River and parts of the site are threatened by flood risk. The primary natural hazards on the site include flood, liquefaction and land stability. In general, Mr Paterson considered Mr Walrond's report adequately addressed the natural hazards on the site and agreed that the site is generally suitable for rezoning from a hazards perspective. Ms Paterson considered that, as with most sites, the structure of the subdivision and any future earthworks would likely be governed by the hazards present on

the site. Management of overland flows and restrictions on slope angles, retaining features and earthworks would be required.

302. Mr Payan, Manager Natural Hazards at the Otago Regional Council, appeared at the hearing for the DCC and outlined the flood hazards affecting the broad Taieri Plain area. He provided information on the flood hazard mapping approach taken by the Otago Regional Council, the different flood hazard areas present on the Taieri Plain, and the potential impacts of climate change on extreme weather events. While his evidence covered the broader Taieri Plain and was not specific to this site, it provided useful information relating to the broad flooding hazards present on the Taieri Plain, including Allanton.

2.3.2.1.7 Compact city objectives and assessment against Policy 2.6.2.1

303. The section 42A report noted the site is distant from centres and facilities, requiring a significant commute for many, with limited public transport options. Mr Morrissey considered rezoning relatively remote pockets of land conflicts with Policy 2.6.2.1.d.xi, which requires that Dunedin stays a compact and accessible city. In his view, rezoning the site would result in inefficient and ineffective public infrastructure as network expansion would be required.
304. Ms Peters noted that the Outram Rural Centre Zone is approximately 8km away, and the Neighbourhood Convenience Centre Zone and Principle Centre Zone at Mosgiel are approximately 8.5 – 9.3km away. She noted that the site would include a retail / commercial area that would operate as a centre. She commented that people living in Allanton may commute to jobs in other locations south of Allanton, such as to the correctional facility and existing industrial activities at Milburn, to the Dunedin City Airport, or to nearby farming and forestry activities. Additionally, Ms Peters noted that, given the site's proximity to State Highway 1 and the gradient of the highway between Allanton and Dunedin and Allanton and Milburn, RS195 is well suited to commuting via electric vehicle.
305. In his Reply Report, Mr Morrissey noted that if the rezoning was to occur, associated commercial development as proposed to service the area, could lead to an area of Allanton becoming a 'Rural Centre Zone'. That is a realistic outcome and would not be within scope or intent of Variation 2.
306. We have addressed Ms Christmas' comments relating to resilient townships in section 2.1.2.4 of our decision.

2.3.2.1.8 Demand for Residential zoned land in Allanton

307. The section 42A report notes there is no evidence that Allanton requires additional development capacity on the scale proposed by this development.
308. At the hearing, Ms Peters noted that the DCC had not undertaken any data based assessment of the zone capacity within Allanton or other townships, despite these townships being crucial to the rural areas which dominate the area serviced by the Dunedin City District Plan. She considered there is an accepted difference between 'zoned capacity' and the 'market availability' of that capacity and referenced a letter from Mr Paul Thomson, a real estate agent at PGG Wrightson Real Estate, about the shortage of residential sections in the greater Dunedin and Taieri areas. Ms Peters argued there is a clear demand for more residential zoned land to be made available to the market in Allanton. Mr Thomson appeared at the hearing in support of his evidence.

309. Mr Morrissey, in his Reply Report, advised that assessing the need for additional development capacity in Allanton would most appropriately be considered as part of the Future Development Strategy process. We note Mr Stocker provided further information relating to housing capacity, including in relation to Allanton in his Memorandum on Residential Housing Capacity (dated 31 August 2022). He also addressed the 'theoretical capacity' issue noting that the modelling work had in fact made realistic assumptions about realistic development capacity of land to be rezoned. Our comments on the methodology for assessing capacity in townships and settlements is discussed in section 2.1.1 of this decision.

2.3.2.1.9 Rural productivity

310. We note that part way through out deliberations the National Policy Statement for Highly Productive Land (NPS-HPL) was released and came into effect. Mr Morrissey, in his response to Minute 15, 16, 17 from the Panel dated 6 October 2022, advised that 98% of this site meets the interim criteria for Highly Productive Land.
311. Due to the timing of the NPS-HPL, and for the sake of clarity, we have chosen to undertake an analysis of the NPS as a separate part of our decision and to focus on whether the consideration of it changes any of our conclusions and decisions. This analysis is given in section 3 of this decision. We note that the analysis in that section has not materially changed our overall decision on the rezoning of this site.

2.3.2.1.10 Reporting Officer's recommendation

312. The section 42A report notes that rezoning this site to residential has clear conflicts with Policy 2.6.2.1. Mr Morrissey considered that the site was currently unsuitable for residential rezoning and recommended that the site remain zoned as Rural Taieri Plain.
313. In his Reply Report, Mr Morrissey maintained his recommendation not to rezone the site, as it is distant from public transport, centres and facilities and there is a lack of evidence in relation to what is required to achieve a resilient township. There are also potential issues in relation to wastewater servicing, concerns about the ability to manage stormwater, and the site being partly located on a Flood 1A Hazard overlay. While houses are not proposed for these areas, the flood hazard may affect accessibility during times of flooding.
314. He considered that the need for additional development capacity in Allanton should most appropriately be considered through the Future Development Strategy and that the most appropriate location and overall design of access, (particularly in relation to access to SH1), be considered as part of the Future Development Strategy.

2.3.2.1.11 Decision and reasons

315. We reject *DDS Properties (2008) Limited's* submission to rezone the majority of RS195 to Township and Settlement Zone, with a smaller area of Large Lot Residential 1, for reasons relating to compact city, carbon emissions, access and flood hazard. We adopt the evidence of Mr Watson (DCC Transport) and Mr Saunders (DCC 3 Waters) that the site is not 'infrastructure ready'. We are unable to place any weight on a potential rail connection due to the very early stage of any discussions with Kiwi Rail. We are also concerned about the cumulative loss of productive rural land, particularly on the Taieri, which was a broad issue raised by Mr Miller and discussed in section 2.2.6. We note the new policy direction in the NPS-HPL requires much greater attention to that issue as discussed in section 3.

316. We were overall quite impressed with Mr Rogers' vision for the land, and the evidence of Mr Forsyth demonstrated that the proposed development is well-integrated internally in terms of cycleways, reserves and proposed amenities. However we consider that rezoning RS195 would be a substantial expansion of the Allanton settlement and agree with Mr Morrissey this should be more appropriately considered through the Future Development Strategy process rather than the much more limited scope of Variation 2.
317. There are many other factors that need to be considered with a development of this scale, including consultation with Waka Kotahi in relation to access onto SH1, whether centre zoning should be provided, and whether additional development capacity is needed in this location to service the Taieri Plain and areas to the south.
318. We consider that access to the site is paramount, as SH1 is a Limited Access Road in this location with open road speed limits in the vicinity. We take no comfort in Mr Fisher's recommendation that a structure plan can be conditioned to require Waka Kotahi's approval prior to development. We consider this is an issue that very much needed to be resolved prior to this rezoning request being made, especially as the rezoning would enable a substantial number of new dwellings on this land. We note that *Waka Kotahi (S235.008)* also made a wider submission that has relevance to this site, that rules are added to greenfield rezoning areas adjacent to a state highway to require that access is achieved from roads other than a state highway.
319. Consequently, we accept the further submissions from *Susan Alanna Browne (FS233.1)* and *others* who opposed Change RS195 due to a range of concerns.

2.3.2.2 489 East Taieri-Allanton Road, Allanton (RS200)

320. This section addresses the submissions covered in section 5.4.19 of the section 42A report.
321. RS200 is located immediately adjacent to the eastern edge of Allanton, alongside and to the south of State Highway 1. It is located below and outside of the Saddle Hill Significant Natural Landscape Overlay Zone (SNL). A Hazard 3 (alluvial fan) Overlay Zone covers part of the site. The site is currently zoned Rural Coastal but adjoins Allanton (zoned Township and Settlement). The section 32 report states that that the site was rejected as there is existing capacity in Allanton, rezoning would not support the compact form/city policies, and parts of the site are very steep. The area proposed for rezoning is only part of the site originally assessed, and encompasses the lower, more gently sloping parts of the site.

2.3.2.2.1 Submissions received

322. *Meats of New Zealand Limited (S232.001)* sought to rezone the site to a mixture of Township and Settlement and Large Lot Residential 1 with a structure plan mapped area over the site, rather than an NDMA. A draft structure plan provided with the submission identifies access to the site via Ralston Street (at the corner of Allanton-Scroggs Hill Road), the location of residential areas, two conservation and enhancement areas totalling 27ha in area, and a parkland /recreation area to be planted with exotic canopy trees. The proposed area of Township and Settlement zoning has a development capacity of approximately 41–61 sections, and a separate proposed Large Lot Residential 1 zoned area (minimum site size 2,000m²) would have capacity for approximately eight sections.
323. A number of further submitters opposed the submission from *Meats of New Zealand Limited*. *Kathryn Anne Simpson (FS132.1)*, *Malcolm Joseph* and *Sharon Roslyn Thomson*

(FS155.1), *Otago Regional Council* (FS184.50), and *Christopher John Burrows* (FS51.1) opposed rezoning for a range of reasons including loss of outlook and rural amenity, stormwater run-off, natural hazard risk, wastewater management issues, lack of infrastructure and facilities to accommodate an increase in population at this scale and traffic safety issues.

2.3.2.2.2 *Landscape, rural character and biodiversity*

324. Mr McKinlay (DCC Landscape Architect) assessed the site for DCC. He considered that the site displays attributes consistent with key values of the surrounding rural zone. He considered it is part of a broader, consistent rural, pastoral landscape to the east of Allanton and there is a currently well-defined eastern edge to residential development within this small township. Mr McKinlay opposed rezoning from a rural character and visual amenity perspective.
325. Ms Peters, in evidence for *Meats of New Zealand Limited* (S232.001), acknowledged that rezoning to residential would create a change in the rural character and amenity. However, this is mitigated by a landscape proposal contained within the submission which included planting along the boundary with SH1 and potentially between the site and Allanton, as well as an area of public reserve and several areas of biodiversity enhancement.

2.3.2.2.3 *Transport*

326. Ms Peters said the proposed access from the north would be from SH1 (via a one way slip lane) and access from the south would be via Ralston Street.
327. DCC Transport raised several concerns. Firstly, they noted that the submitter's proposed structure plan implies access off State Highway 1. This section of road is a Limited Access Road and there is no evidence of consultation with Waka Kotahi with regards to access. Access from Ralston Street raises issues as this street has no footpaths or kerbs, and development could potentially change the traffic dynamics on this road to a significant degree.
328. Secondly, DCC Transport commented that the site is located some 20km from the central city. Walking and cycling would not be a feasible form of transport, and there is no infrastructure to support alternative modes of transport. There is also no public transport service available to the site.
329. Mr Grant Fisher (of Modal Consulting Limited) provided a brief commentary on the design standards required for exits from SH1 on behalf of *Meats of NZ Limited*. In response to the concerns raised by DCC Transport, Ms Peters noted a performance standard could be attached to a structure plan mapped area requiring provision of an integrated traffic assessment prior to subdivision.
330. Mr Watson, DCC Transport, responded that the additional access details as they relate to the State Highway would need consideration / agreement with *Waka Kotahi* and Ralston Street may need widening. His concerns had not been addressed and he remained opposed to the rezoning.

2.3.2.2.4 *3 waters*

331. DCC 3 Waters noted that Allanton is self-serviced for water. It considered the part of the site proposed to be zoned as Township and Settlement is not feasible for self-servicing and the

part of the site proposed to be zoned Large Lot Residential 1 is constrained, although self-servicing may be possible. They noted that top up water from tankers may be required. The Allanton wastewater scheme is a pressure sewer scheme with individual pump stations for each lot discharging to a rising main to the Mosgiel wastewater treatment plant. DCC 3 Waters considered that connecting to this scheme may be possible; however, a more detailed analysis is required.

332. DCC 3 Waters noted there is no stormwater infrastructure close to the site. Downstream of the site is a naturally contoured field leading to a small pond which is connected to ORC Schedule Drain 01A which flows into the Owhiro Stream, eventually discharging into the Taieri River. The Owhiro Stream has capacity issues in rainfall events when the Taieri River's level is high and the Owhiro Stream cannot discharge into it. This results in flood issues in Mosgiel. Stormwater would need to be managed in accordance with the NDMA requirements so that there is no increase in the peak stormwater discharge rate.
333. Ms Peters considered self-servicing with respect to potable water would be feasible, as would self-servicing for wastewater in the Large Lot Residential zoned area. She also referenced a high level assessment by DCC 3 Waters that connecting to wastewater supply in Allanton was feasible. She stated that subdivision performance standards require that wastewater can be dealt with either by way of connection to reticulated service or by on-site wastewater treatment and dispersal to ground. She proposed that stormwater would be detained from roof surfaces for use as potable water. Overflow from tanks and stormwater from impermeable surfaces would be attenuated within the site, with details outlined within a stormwater management plan to be prepared at the time of subdivision.

2.3.2.2.5 *Hazards*

334. The issue of flood risk was raised in the ORC further submission. The section 42A report notes the site has been assessed by Stantec as having low level hazards associated with flooding. No further evidence was provided by ORC.

2.3.2.2.6 *Compact city objectives*

335. The section 42A report notes that, although immediately adjacent to the edge of Allanton, the site is distant from centres and facilities and would require a significant commute for many to Mosgiel or Dunedin for work, which is inconsistent with Policy 2.6.2.1.c. In addition, public transport is extremely limited in Allanton and the site ranked poorly in relation to carbon emissions. Mr Morrissey considered that rezoning relatively remote pockets of land conflicts with Policy 2.6.2.1.d.xi, which requires that Dunedin stays a compact and accessible city.
336. Ms Peters considered the Dunedin City Council had incorrectly interpreted Policy 2.6.2.1.d.xi and that this policy could not be applied in a 'Dunedin City centric' way. Her evidence is that the Dunedin City Council has failed to place emphasis on '...with resilient townships...' when assessing RS200. She noted that the townships within the DCC area service a large rural area by providing places for people to live who work in the rural environment or for businesses supporting activities undertaken in the rural environment. She noted that townships such as Allanton often provide a place for these workers to own their own property at a more affordable price and raise their families closer to schools and facilities than would otherwise be the case. Others chose to live in townships like Allanton for reasons of personal preference and may commute to jobs in other locations including south of Allanton for

example, to the correctional-facility and existing industrial activities at Milburn or inland to the Dunedin City Airport, farms or forestry.

- 337. Ms Peters noted that the Clutha District Council recently rezoned approximately 250 hectares of land at Milburn between the Main South Railway line and SH1 Industrial Resource Area, and Calder Stewart has plans to establish an inland port at the site with industrial buildings and land available for rent and sale. She considered this would create more jobs within a short commute of both Outram (35km) and Allanton (30km) and that there is a shortage of housing in both Milton and Waihola.
- 338. Ms Peters also noted that the Government has a target to increase zero-emissions vehicles to 30% of the light fleet by 2035 and is promoting the uptake of electric and low emissions vehicles. Given its proximity to SH1 and the gradient of SH1 between Allanton and Dunedin and Allanton and Milburn, Ms Peters considered RS200 is ideally suited to commute by electric car.

2.3.2.2.7 Demand for residential zoned land in Allanton

- 339. The section 42A report notes that there is existing development capacity in Allanton and there is no evidence that additional development capacity at this scale would be required.
- 340. Ms Peters argued the DCC has not undertaken any data based assessment of the zone capacity within Allanton and other townships despite these townships being crucial to the rural areas which dominate the area to be serviced by the Dunedin City district plan. Ms Peters considered that there is an accepted difference between 'zoned capacity', likely what is referenced in both the section 32 and section 42A reports, and the 'market availability' of that zoned capacity. She considered there is a demonstrated shortage of zoned capacity available to the market in Allanton with more demand than can be satisfied.
- 341. In his Reply Report, Mr Morrissey considered that the need for, and provision of, additional development capacity in Allanton would most appropriately be considered as part of the Future Development Strategy process.
- 342. We note Mr Stocker provided further information relating to housing capacity, including in relation to Allanton, in his Memorandum on Residential Housing Capacity (dated 31 August 2022). This is discussed further in section 2.1.1 above.

2.3.2.2.8 Rural productivity

- 343. We note that part way through our deliberations the National Policy Statement for Highly Productive Land (NPS-HPL) was released and came into effect. Mr Morrissey, in his response to Minute 15, 16, 17 from the Panel dated 6 October 2022, advised that 82% of this site meets the interim criteria for Highly Productive Land.
- 344. Due to the timing of the NPS-HPL, and for the sake of clarity, we have chosen to undertake an analysis of the NPS as a separate part of our decision and to focus on whether the consideration of it changes any of our conclusions and decisions. This analysis is given in section 3 of this decision. We note that the analysis in that section has not materially changed our overall decision on the rezoning of this site.

2.3.2.2.9 *Reporting Officer's recommendation*

345. Mr Morrissey considered that rezoning RS200 conflicts with Policy 2.6.2.1 as it is distant from public transport, centres and facilities and there is a lack of evidence in relation to what is required to achieve a resilient township. There are also potential issues in relation to wastewater servicing and concerns about the ability to manage stormwater. He recommended that the site remained zoned Rural Taieri Plain.
346. He considered that the need for additional development capacity in Allanton would be most appropriately considered through the Future Development Strategy and further assessment of the location of access from SH1 would be required, and would need to be confirmed, for any future rezoning of the site.

2.3.2.2.10 *Decision and reasons*

347. We reject *Meats of NZ Limited's* submission (S232.001) to rezone the majority of RS200 to a mixture of Township and Settlement and Large Lot Residential 1. The key reasons for finding the proposal inappropriate are firstly the lack of evidence that transport issues have been appropriately considered or supported with no evidence or confirmation from Waka Kotahi that access from SH1 is feasible in this location which is a fundamental matter for such a large area of land to be rezoned for residential purposes. We were surprised this matter had not been addressed before the submission for rezoning was made. Secondly, we consider there is inadequate evidence that 3 waters matters can be appropriately addressed, and note the lack of support from the DCC Transport and 3 Waters teams for the proposal. We were also concerned about the cumulative loss of productive rural land, particularly on the Taieri, which was a broad issue raised by Mr Miller and discussed in section 2.2.6. We note the new policy direction in the NPS-HPL requires much greater attention to that issue as discussed in section 3.
348. We consider that the servicing of any growth of this scale in this township is potentially a significant undertaking and is a more appropriate proposal for an FDS process, if required.
349. With respect to some of the arguments made by the submitter to support the need for the proposal, we refer to our discussion in section 2.1.1 in relation to DCC's assessment of housing supply and demand, and in particular the assessment of catchment rather than individual townships or localities. As outlined in that section, we consider the assessment made by Mr Stocker to be appropriate. We acknowledge Ms Peters' evidence on changes in land use to the south of Allanton, which she considered may result in an increase in demand for housing, but we prefer Mr Stocker's assessment, which is data-based and in our view, sufficiently robust.
350. We also refer to our discussion in section 2.1.2.4 on the appropriate consideration of the 'resilient townships' aspect of Objective 2.6.1. We accept Ms Christmas' evidence that Allanton is not a township as identified in the Spatial Plan or 2GP, and that the Future Development Strategy is a more appropriate mechanism to consider whether and how it is appropriate for Allanton to grow.
351. As a consequence of making this decision, we accept the further submissions from Kathryn Anne Simpson (FS132.1), Malcolm Joseph and Sharon Roslyn Thomson (FS155.1), Otago Regional Council (FS184.50), and Christopher John Burrows (FS51.1) opposing Change RS200.

2.3.3 Aramoana

2.3.3.1 761 Aramoana Road, Aramoana (RS205)

352. This section addresses the submissions covered in section 5.4.20 of the section 42A report.
353. 761 Aramoana Road is located at Te Ngaru, approximately 2km west of Aramoana, West Harbour. The part of the site sought to be rezoned is a 0.4ha largely flat area but encompassing the lower part of the slope at the north of the site. It is currently zoned Rural Coastal but located within an existing strip of Township and Settlement zoning. The site is low lying and separated from the harbour only by Aramoana Road. The site is fully covered by an archaeological alert layer, the Careys Bay to Te Ngaru Significant Natural Landscape Overlay Zone (SNL), three wāhi tūpuna mapped areas (Views from Ōtākou Marae around Upper Harbour, Hill faces near / at Aramoana, and Ōtākou Harbour), and a Hazard 3 (coastal) Overlay Zone. The section 42A report notes the site is relatively distant from services and is not serviced for 3 waters.
354. The section 42A report states that the site was rejected in the section 32 report due to the overlap with the SNL, as it was considered inappropriate for residential development due to the significance of the landscape values and their protection under the 2GP policy framework.
355. The section 42A report notes, by way of background, that land use and subdivision consents were granted by Environment Court consent order in 2013. This consent allowed the subdivision of the land Lot 1 DP17304 and Lot 1 DP 386904 held together in Certificate of Title CFR 376663 into two lots, with the right for a residential dwelling on each lot. This consent has now lapsed.

2.3.3.1.1 Submissions received

356. *Lex Anderson (S36.001)* submitted to rezone part of 761 Aramoana Road to Township and Settlement zone. A further submission from *Lex Anderson (FS150.1)* clarified that the area proposed to be rezoned consisted of proposed Lots 1, 2, and 3 adjoining Aramoana Road, between the existing areas of Township and Settlement zoning. Proposed Lot 4 (the majority of the site) would remain as Rural zoning.
357. This submission was supported by two other further submitters; *Allan Sutherland (FS10.1)*, and *Alwyn Frost (FS12.1)*. Ms Denise Grey attended the hearing appearing along with Mr Allan Cubitt on behalf of *Mr Anderson*. Ms Grey is a part owner of the site and supported the proposed rezoning. Ms Grey outlined the family history of the property and explained why the consent had lapsed.
358. The submission was opposed by several further submitters (Amanda Saul (F13.1), Tracey Fleet (FS247.1), John Abernethy (FS121.1), Ron Fogel (FS209.1), Melva Davidson (FS171.1), Stephen Atfield (FS227.1), Gunver Fridell (FS99.1) and Claire Carey (FS52.1). Several of these further submissions supported rezoning and development of proposed Lots 1, 2 and 3 (in one case subject to exclusion of rockfall hazard areas). The remaining further submitters opposed all rezoning. Reasons given included hazards (instability and rockfalls) and loss of amenity values adjacent to the Aramoana Conservation Area.
359. Two of the further submitters, Ms Fleet and Ms Carey, appeared at the hearing.

2.3.3.1.2 *Landscape, rural character, biodiversity and visual amenity*

360. The site is overlain with an SNL. Mr McKinlay, DCC's Landscape Architect, addressed the impact of rezoning on the values of the SNL in the section 42A report. He noted that the proposed rezoning was consistent with existing development in the settlement and that this small development would not detract from the more natural characteristics of the bush clad slopes within the remainder of the site, or the landscape values of the wider surrounding area. Mr McKinlay supported amending the SNL boundary so that it excludes the area proposed for rezoning. We note that this suggestion raises a question of scope, which we discuss below.
361. *Ms Claire Carey (FS52.1)* opposed more development in the area. She appeared at the hearing in support of her evidence. Ms Carey's reasons for opposing the development included that the site is adjacent to ecological area and that houses at Te Ngaru will be visible to those visiting the tidal reserve. Her submission noted concerns about the potential loss of privacy and amenity values, however at the hearing we were told Ms Carey was not concerned at effects on her amenity values so much as the effects on the hillside behind the front lots. Ms Carey noted that Aramoana is a beautiful place and a gift given to us by the country.
362. *Tracey Fleet (FS247.1)* said she spoke on behalf of several other submitters who share her views. Ms Fleet was supportive of rezoning Lots 1, 2, and 3 as proposed, but opposed to any rezoning on Lot 4, the large rural area that runs along the back of numerous other properties at Te Ngaru. Ms Fleet did not want the submitter to be disadvantaged by being unable to develop the land.
363. Evidence from Mr Kelvin Lloyd, of Wildland Consultants, referenced in the section 42A report notes that the proposed rezoning area encroaches on a small section of broadleaf forest at the rear of the boundary to the north-west. Mr Lloyd considered that rezoning would have a relatively minimal impact on indigenous biodiversity values at the site as this area of forest is not considered ecologically significant; however, he recommended it would be beneficial to protect native vegetation during the development.
364. In the section 42A report, Mr Morrissey noted that the submitter had indicated they would like to provide a public walking track and further native planting on the property.

2.3.3.1.3 *3 waters*

365. As part of the section 42A report, DCC 3 Waters noted that self-servicing for both potable water and wastewater servicing would be required. 3 Waters considered this could be challenging due to shallow groundwater, although if groundwater depth is greater than 0.6m then self-servicing for wastewater was considered feasible. Mr Oliver and Mr Saunders, DCC 3 Waters, note that sea level rise is likely to reduce the depth to groundwater over time, increasing the risk of any wastewater disposal system failing in future. Due to the proximity to the coast, stormwater attenuation would not be required but erosion protection and stormwater treatment would still be necessary. DCC 3 Waters considered there are risks involved with rezoning this site due to the constrained water supply, uncertainty regarding wastewater disposal and coastal hazard risks associated with climate change.
366. Mr Cubitt's view was that the issues raised by DCC 3 Waters could be dealt with on site, and that wastewater systems can be designed to address the potential for sea level rise, storm surge, and other potential hazards.

2.3.3.1.4 Hazards

367. *Ron Fogel (FS209.1) and others* opposed rezoning due to concerns about geotechnical stability of the site and the potential for landslides and rockfalls.
368. Land instability was assessed by Stantec for DCC through a desktop assessment. Mr Paterson identified a rockfall hazard from the slopes above and that rockfall impactation in this area is possible. There is also a potential liquefaction hazard on the low-lying part of the site. Mr Paterson assessed the site as having a low hazard level in the context of a proposed Township and Settlement zoning, given the surrounding area is also zoned Township and Settlement. However, if the area was being assessed as a discrete area for future development, it would be assessed as a high hazards level. He noted that further engineering assessment would be required at the time of subdivision to identify the safety of this area for further development.
369. The section 42A report identifies that the site is subject to a Hazard 3 (coastal) Overlay Zone. Work is currently underway to further assess coastal hazards and associated risks in Dunedin, such as risk of erosion, inundation, ponding and groundwater effects. This initial risk screening will identify priority areas for further assessment and may identify additional planning mechanisms to manage these hazards. In the meantime, Mr Morrissey considered a cautious approach should be taken to providing for activities in coastal environments that may be at risk from increased hazards.
370. In his hearing evidence for Mr Anderson, Mr Cubitt provided a report from Mr Robin of Geolink, which contained an earlier geotechnical assessment of the proposed site. In the report, Mr Robin noted that there are suitable and safe building platforms on Lots 1-3, although no building should be undertaken within 20 metres of the base of the cliff. In relation to proposed site for Lot 4, he considered that the site is unsuitable due to severe physical limitations and the risk of rockfall and / or inundation from the slopes above.
371. Mr Cubitt considered that the issues identified in the section 42A report can be addressed through conditions. He considered this would lead to any development of this site being more resilient to the natural hazards that affect this area than any of the existing sites.
372. In relation to the broader issue of sea level rise, Mr Cubitt noted this was addressed by Mr Maurice Davis, a Marine and Coastal Engineer, at the 2011 hearing. His evidence (Appendix 5 of his hearing evidence) discussed the physical and hydrological features of Otago Harbour and the effects they have on conditions at the site, along with sea level rise at Te Ngaru. Mr Cubitt acknowledged that the report may be outdated, however he considered that this site is no more vulnerable to sea level rise than the surrounding properties and any future development would be better designed to cope with these issues.
373. In his Reply to Submitters Evidence, Mr Paterson noted that the Geolink report is outdated, and a new assessment based on the proposed layout is required. Mr Paterson considered that the issues associated with liquefaction and coastal hazards are appropriately addressed in the evidence provided by the submitter. He noted that the Geolink report is acceptable at the current stage of rezoning but that a new rockfall assessment would be required to support any subdivision application in the future. The outcome of this would inform the rockfall protection required (if any) and areas that may be at risk of inundation. Overall, he considered that the evidence provided is sufficient validation that the site is suitable for the proposed rezoning from a hazards perspective.

374. In his Reply Report, Mr Morrissey noted that from a planning perspective, rezoning is not well aligned with Policy 2.6.2.1.d.viii, due to the coastal hazard risk and sea level rise.

2.3.3.1.5 Compact city objectives

375. Mr Morrissey noted that from a planning perspective, rezoning is not well aligned with Policy 2.6.2.1, due to its distance from services and public transport and issues with the compact and accessible city objective.
376. Mr Cubitt acknowledged the concerns in raised in the section 42A regard to compact city objectives; however, he noted that this is a small 'infill' rezoning within an existing settlement. He considered that the policy is not particularly relevant to a proposal of this nature, as it is aimed at large, greenfield developments rather than a small infill development within an already zoned residential area.

2.3.3.1.6 Reporting Officer's recommendation

377. Overall, Mr Morrissey did not support rezoning from a policy perspective due the natural hazard risk, wastewater servicing issues and distance to services. However, he noted that very limited additional development capacity is proposed and that there is existing Township and Settlement zoning on two sides. He also expressed sympathy for the submitter's proposal and noted that many (although not all) of the further submitters are supportive of the rezoning of (proposed) Lots 1, Lots 2, and Lots 3.
378. In his Reply Report, he noted that any proposed development would be a non-complying activity under the current rural zoning and the details of development and site-specific mitigation (if required) could be considered at the time of subdivision consent. He noted the evidence from Mr Watson of DCC Transport that an additional three residential dwellings would not have a significant impact on the wider transport network. Overall, Mr Morrissey did not provide a specific recommendation on the rezoning of RS205.
379. Mr Morrissey considered that if we chose to rezone RS205 to Township and Settlement, a 'no DCC reticulated wastewater mapped area' should be applied to the area rezoned. He also recommended that if in scope, the SNL at this location should be amended to exclude the rezoned area as a consequential change. Alternatively, a consequential change could be made to rules 10.3.5.X and Y, which limit the size and location of buildings in the SNL.

2.3.3.1.7 Decision and reasons

380. We accept *Lex Anderson's (S36.001)* submission to rezone part of 761 Aramoana Road to Township and Settlement Zone. We adopt the Reporting Officer's recommendation to apply a 'no DCC reticulated wastewater mapped area'. These changes are shown in Appendix 2 with the reference 'Change RS205/S36.001'.
381. We note that consent has previously been granted to subdivide this site, and we acknowledge *Mr Anderson's* submission that for family reasons the previous resource consent was unable to be realised. We note the submissions in opposition were primarily concerned with the land at the rear of the site, which the submitter is not actually seeking to rezone. In our view, zoning this small site will 'fill in' a gap in the existing settlement, and will not result in any noticeable change in effects when considering those existing dwellings.
382. Our one concern relates to sea level rise and the risk of flooding. In this regard, we note that minimum floor levels will be required under the Building Act, and that any dwelling will be

required to be relocatable, under 2GP rules. This will ensure that future development will be more resilient to natural hazards and climate change than existing dwellings in the area. Another key factor is that there is very limited potential for redevelopment on the site to be rezoned.

- 383. We acknowledge that Ms Carey's concerns on privacy and amenity were not pursued at the hearing, and we consider that three potential additional dwellings will not affect the amenity values in any meaningful way given the existing development in the area.
- 384. Overall, having considered the costs and benefits of zoning in accordance with section 32AA, we consider that there is a low risk of providing for a very limited increase in residential development in this particular location and that any infrastructural constraints can be managed at the subdivision and development stage.
- 385. We consider that it is appropriate to amend the Careys Bay to Te Ngaru Significant Natural Landscape Overlay to exclude the area covered by RS205 as a consequential change to the rezoning. We note Mr McKinlay supported this approach in the section 42A report as it would provide consistency with the SNL Overlay Zone boundary with the lots adjacent either side of RS205, which appear to be drawn to match the boundary of the township and settlement zone. While not specifically sought through the submission we believe there would be negligible natural justice issues in adopting this view as the key impact on landscape was raised through the requested rezoning, which we note was also traversed through the original hearings on the 2GP, and enabled further submitters to raise concerns about landscape values.

2.3.4 Brighton

2.3.4.1 Parts 155 Scroggs Hill Road, Brighton (GF01)

- 386. This section addresses the submissions covered in section 5.2.1 of the section 42A report.
- 387. Variation 2 proposed to rezone GF01 from Rural Residential 1 zone to Large Lot Residential 1 zone.
- 388. In the section 42A report, Mr Morrissey described the site as follows. GF01 is approximately 11.2ha in area and is part of a rural residential zoned property immediately to the north of Brighton. The site is currently farmed and is adjoined by proposed rezoning sites RS160 and RS220. Mr Morrissey noted that the site is 2km from Brighton neighbourhood centre and 1.6km from the nearest bus route. Big Rock Primary School is 2.3km away. While the site is not adjacent to residential zoned land, existing rural-residential development along Scroggs Hill Road between the site and the residential zoned area gives the impression of connection to the township.
- 389. He noted that the proposed zoning in Variation 2 is Large Lot Residential 1 rather than more intensive residential zoning. This was primarily due to the difficulties in servicing the site for wastewater and water supply, and to manage effects on rural character and visual amenity. Under this zoning, the estimated capacity of the site is 45 – 55 dwellings. There are no areas of the site that contain indigenous biodiversity. Mr Morrissey noted that Stantec had previously assessed the site as having a medium level hazard and that a geotechnical investigation would be required prior to development.

2.3.4.1.1 Submissions received

- 390. *Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd (S249.002 and others)*, the owners of the land at GF01, supported rezoning but sought amendments to rezoning to Township and Settlement Zone at two different densities over part of the site and Large Lot Residential 1 Zone over the remainder. They also sought removal of the new development mapped area and the no DCC reticulated wastewater mapped area.
- 391. Ms Peters appeared at the hearing and stated that *Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd* are now supportive of GF01 as notified (rezoning to Large Lot Residential 1, application of a new development mapped area, and a no DCC reticulated wastewater mapped area).
- 392. The *Saddle Hill Community Board (S56.007)* supported the change providing that the developments do not put pressure on existing infrastructure.
- 393. The *ORC (S271.032; FS184.98 and others)* opposed the proposed zoning, as well as the submission to amend Change GF01 to the zones shown in the submitter's proposed structure plan. The submission said an increase in development in this area would require significant infrastructure planning, including high quality on-site wastewater management. It noted the site is located within the Otokia Creek catchment, which features an intermittently opening and closing lagoon and is sensitive in terms of meeting contact recreation standards. The *ORC* sought a lower density of development (exact zoning not stated) or that a significantly higher quality on-site wastewater treatment solution be provided.

2.3.4.1.2 Landscape and rural character

- 394. Mr McKinlay, DCC's Landscape Architect, had assessed the proposal as requiring a suite of mitigation measures (including restrictions on building height, light reflectance values, requiring planted buffers, restrictions on fencing and entrance features, and tree planting requirements) to limit the extent of adverse effects on visual amenity and landscape effects.
- 395. *Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd* provided a landscape assessment which covered both GF01 and RS160 as part of their submission. This included a number of proposed development conditions that would apply to the various sub-areas of GF01 and RS160. Mr Morrissey confirmed that in his view these conditions, if they could be appropriately implemented, addressed all of the mitigation measures outlined above. However, he was concerned about the implementation of urban design controls.
- 396. In presenting his evidence for this submitter, Mr Hugh Forsyth, Landscape Architect, agreed that design controls are needed to manage the effects of residential development on rural landscape values. He recommended a range of mitigation measures including planting along gullies to break up development, a 10m offset from Scroggs Hill Rd and planting either side of the access road.
- 397. In the section 42A report Mr Morrissey advised that, if the Panel decides to rezone the site and considered that these mitigation measures are critical, there is currently no policy support in the plan for urban design controls to manage the effects of residential development on rural landscape values. He considered a new policy would need to be drafted, against which an assessment of any contravention of these standards could be assessed.

398. Ms Peters, in evidence for *Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd* considered that implementation of design controls could be managed through a structure plan.
399. Ms Christmas also addressed this matter, as one of a number of broad matters, in her Reply Report. She considered that bespoke localised urban design controls that are primarily concerned with maintaining amenity for local residents are generally not evaluated favourably due to the costs (which are partly publicly funded) exceeding the benefits (which are often private or localised). She also noted that the need to apply urban design controls to support rezoning in some urban areas, but not in others, for specific local benefit is not a consistent approach and is generally not appropriate.

2.3.4.1.3 Transport

400. Mr Watson highlighted some significant concerns with respect to transportation and roading, as follows. Scroggs Hill Road has a hairpin curve and steep gradient from Brighton Road and a narrow carriageway formation. It is a high-risk rural road with a speed limit of 80km/h and as a result increased signage and road markings, and potentially crash barriers at affected intersections, may be required. The intersection with Brighton Road is poorly aligned which makes the left turn in and right turn out extremely difficult. Additional traffic as a result of rezoning this land would require substantial improvements which have not been investigated at this stage, including on Seaview Road / McIntosh Road where the Saddle Hill Community Board has requested safety improvements. There is parking along the road and an informal footpath (no kerb and channel), resulting in vehicles driving on the pedestrian area, which is an obvious potential safety issue which would be amplified by additional traffic.
401. Mr Watson noted that there are limitations on improvements to Scroggs Hill Road due to the topography necessitating substantial earthworks and potentially a need for land acquisition. He considered that additional development would not be appropriate, without road upgrades to alleviate these issues, as well as footpaths and kerb and channel being required on the site frontage and south of the site, to link with existing infrastructure at 50 Scroggs Hill Road. This work is unprogrammed and unfunded. He also considered that should rezoning proceed, the speed limit on Scroggs Hill Road would need to be reduced to mitigate the potential for crashes associated with new vehicle accesses and intersections, and that the nearest bus stop, on Brighton Road, is over 1km away from the southern boundary of the site with little prospect of expanding the public transport network here due to the narrow and winding alignment of Seaview Road and Scroggs Hill Road.
402. In her planning evidence for *Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd*, Ms Peters considered that a footpath connection between GF01 and the existing Township and Settlement zoning would be feasible and could be dealt with at the time of subdivision. In her view, the other transport issues raised in the section 42A report related to further development in the area, such as RS160 (see section 2.3.4.2 of this decision), rather than being required in order to rezone GF01 in isolation.
403. In his Response to Submitters' Evidence, Mr Watson confirmed his original assessment, and noted that no expert transport evidence was provided by the submitter to support that substantial upgrades will not be required.
404. At the hearing, we asked if there is further information about the percentage of Brighton residents who commute into the city for work or study. In his Response to Submitters Evidence, Mr Stocker, DCC Research and Monitoring, advised that the commuter data used

in carbon emissions analysis includes where people live and where they work/study, to a Statistical Area 2 (SA2) level. He noted that a visual representation of the commute data used in the carbon emissions analysis is available on the Commuter Waka webpage⁶. The website shows that Dunedin Central is the most common destination for work or school outside of Brighton, with 159 departures (21%). To travel to work or school, people in Brighton most often drive a private car, truck or van (51%).

2.3.4.1.4 3 waters

405. In the section 42A report, Mr Morrissey noted that DCC 3 Waters had provided an updated and more detailed assessment on GF01 in response to the zoning proposed in the submitters structure plan. They considered that providing potable water would require a new reservoir, which could service elevations up to 84m, and above that altitude booster pumps would be required.
406. The advice of DCC 3 Waters was that pumping is not supported due to higher operation and maintenance costs and the need to reduce carbon emissions. Major upstream network upgrades would also be required. Wastewater servicing is not supported for any sites that are lower than Scroggs Hill Road, as these would require wastewater pumping and significant downstream network upgrades would also be required. Contrary to the statement in the section 32 report, DCC 3 Waters clarified that no funding to service the site for wastewater had been budgeted in the 10 year plan. In addition, 3 Waters noted that on-site stormwater attenuation would be required, to ensure that there is no increase in the peak discharge rate from the site, and they raised concerns about the affordability of appropriate stormwater management.
407. Ms Peters said that drinking water would be supplied by rainwater collection, and wastewater would be serviced on-site with a secondary treatment system and dispersal field, and further that the no DCC reticulated wastewater mapped area should be retained.
408. In their Response to Submitter Evidence, Mr Oliver and Mr Saunders of DCC 3 Waters reiterated that they do not support any proposed Township and Settlement zoning for either GF01, or the adjacent RS160 and RS220, as under this zoning there would be an expectation of 3 waters servicing which is problematic to provide. At the time of the section 32 assessment, DCC 3 Waters had advised that self-servicing of GF01 at Large Lot Residential 1 density would be feasible.

2.3.4.1.5 Demand for residential zoned land in Brighton

409. Mr McLeary, the owner of GF01, commented there is currently demand in Brighton for large lot residential lots, as there are few zoned sites available for development. In her evidence, Ms Peters also argued that there is clear demand for more residential zoned capacity to be made available in this location, however she did not provide any specific evidence on this.
410. Ms Peters raised a number of broad issues with the Council's housing capacity assessment and on the impact of the new pre-1940s demolition rule, which we have discussed in section 2.1.1 of the decision. As noted, we are satisfied that the housing capacity assessment has

⁶ [Commuter - Waka](#)

been undertaken appropriately and that we can rely on its findings, and that the pre-1940s rule has been removed from Variation 2⁷.

2.3.4.1.6 *Reporting Officer's recommendation*

- 411. Mr Morrissey stated that GF01 was notified as Large Lot Residential 1 zoning, and he did not consider there is scope to rezone it to Township and Settlement. With respect to Large Lot Residential 1 zoning, he acknowledged that while GF01 is part of Variation 2 as notified, the more in-depth assessment conducted following submissions (as recorded in the section 42A report) highlighted significant concerns with rezoning this land, including the need to upgrade both Scroggs Hill Road and Seaview Road. While Large Lot Residential 1 zoning could self-service for 3 waters, he noted that if Township and Settlement zoning were implemented there would also be issues with potable water and wastewater.
- 412. In his Reply Report, Mr Morrissey noted that DCC Transport's position is that GF01 on its own would require significant roading improvements that make development in this area unfeasible and inappropriate. He recommended that the proposed rezoning of the land be removed.

2.3.4.1.7 *Decision and reasons*

- 413. The evidence we heard from Council reporting officers highlighted significant concerns in relation to transport infrastructure and the feasibility of conducting upgrades. We adopt the evidence of Mr Watson that rezoning GF01 would require significant roading improvements at the southern extent of Scroggs Hill Road. There was no expert counter evidence on this aspect. We agree with the reporting officer's recommendation that the site is not suitable for rezoning due to the requirement for roading upgrades that are unplanned and unfunded and may not be feasible. Overall, having considered the costs and benefits of zoning in accordance with section 32AA, we consider that in this case the costs associated with rezoning GF01 would outweigh the benefits.
- 414. We also note the *Saddle Hill Community Board's* submission (S56.007) which supported rezoning providing the development does not put pressure on existing infrastructure. As outlined, we consider that the transportation infrastructure at this location is inadequate to support rezoning.
- 415. We reject the submission of *Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd* (S249.002) submission to rezone part of the site to Township and Settlement Zone and the remainder to Large Lot Residential 1 zoning. We accept Mr Morrissey's evidence that GF01 was notified as Large Lot Residential 1 zoning, and that there is no scope to rezone it to Township and Settlement.
- 416. We also agree with the ORC submission and evidence from the DCC 3 Waters that intensifying the zoned capacity on parts of the site is not appropriate due to constraints on infrastructure. Accordingly, we accept the ORC's submission (S271.032) which opposed the notified zoning.

⁷ We note that the decision of the Environment Court, No. [2022] NZEnvC 234, removed this rule due to the original submission being considered outside the scope of Variation 2.

417. Consequentially, our decision is to remove the proposed Large Lot Residential 1 zoning, new development mapped area, and no DCC reticulated wastewater mapped area as notified for this land. This means the previous Rural Residential zoning is re-instated.

2.3.4.2 155 Scroggs Hill Road (in part) (RS160)

418. This section addresses the submissions covered in section 5.2.2 of the section 42A report.
419. RS160 is located on Scroggs Hill in Brighton, immediately adjacent to GF01 and RS220. The site is approximately 40ha in size and is currently zoned a mixture of Rural Residential 1 and Rural Coastal. There is a small area of high class soils in the southernmost corner of the site. The site is located 450m from the nearest residentially zoned area (Township and Settlement). The site is 2km from Brighton neighbourhood centre, 1.4km from the nearest bus route and Big Rock Primary School is 2.1km away.
420. We note that RS160 adjoins GF01, and that *Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd's* original submission and structure plan covered both sites. While we have considered the sites separately, the issues affecting the two sites are very similar. We also note that, in contrast to GF01, the submitter did not present evidence in support of RS160 at the hearing.

2.3.4.2.1 Submissions received

421. *Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd (S249.001)* sought to extend Change GF01 to include further areas within the same general area, including RS160. This submission was opposed by the *Otago Regional Council (FS184.63)* and *Scott and Justin Weatherall (FS217.1)*.
422. *Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd (S249.003)* sought to rezone part of 155 Scroggs Hill Road to a range of zones (shown in the submitter's proposed structure plan). In the structure plan, setbacks of 10m are proposed from external roads and some access roads to provide for native tree and shrub planting, grass verges and a cycling track along Scroggs Hill Road. The structure plan provided for a total of 157 lots across both GF01 and RS160. This submission was opposed by the *Otago Regional Council (FS184.529)* and *Scott and Justine Weatherall (FS217.2)*.

2.3.4.2.2 Submitter's response to section 42A report recommendation

423. Ms Peters appeared at the hearing on behalf of *Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd*. While the focus of the presentation was on GF01, Ms Peters noted that information had been put forward in the submission on RS160 indicating that RS160 is suitable for residential development. In addition, Ms Peters proposed that an RTZ overlay could be applied to RS160 until transport constraints can be addressed.

2.3.4.2.3 Landscape character, visual amenity and biodiversity

424. Mr McKinlay, the DCC's Landscape Architect, advised us that he had previously assessed some of the area covered by RS160 at the time of the section 32 assessment. Out of the wider area he assessed, he considered certain areas of RS160 as being the least suitable for rezoning, from a landscape and visual amenity perspective, as it is more visually prominent, further from Brighton centre, and closer to existing rural residential development. Mr McKinlay also provided, as part of the section 42A report, a more recent assessment of the submitters proposed structure plan. He concluded that any development in the area should

generally be restricted to the GF01 area, and capped at large lot residential density. He did note that if potential adverse effects of earthworks can be managed, a small extension (which is located within RS160) to the west and south of the water reservoir could be supported.

425. The section 42A report was informed by an assessment of indigenous biodiversity values prepared by Kelvin Lloyd of Wildland Consultants provided on behalf of the Dunedin City Council. He considered that the vegetation to the east of Scroggs Hill Road is not ecologically significant. However, it noted that to the west of the road, the gully contains wetland habitat and indigenous forest and there is an area of wetland at the far west of the proposed rezoning area, both of which meet the 2GP criteria for significant indigenous vegetation. Wildlands recommended that this vegetation be protected if the site is rezoned.

2.3.4.2.4 Hazards

426. Mr Paterson from Stantec provided evidence that the site has medium level hazard risk associated with slope instability. He stated that a geotechnical assessment will be required to confirm the stability of any proposed lots. Provided the site is found to be stable, some specific earthworks and stormwater management requirements would be required for lots on the site. He considered that it is likely that removal of trees from the gully areas will exacerbate instability. The ridgelines and flatter areas appear to be suitable for building platforms.

2.3.4.2.5 Transport

427. Mr Watson from DCC Transportation outlined the same concerns as for adjoining site GF01, which we have discussed earlier in this decision. In brief, Scroggs Hill Road has a hairpin curve and steep gradient from Brighton Road, along with a narrow carriageway formation. The intersection with Brighton Road is poorly aligned and makes turning extremely difficult. There are limitations on carrying out improvements to Scroggs Hill Road due to the topography, necessitating substantial earthworks and potentially necessitating land acquisition.

2.3.4.2.6 3 waters

428. As part of the section 42A report, DCC 3 Waters advised that providing potable water to this site would require pumping due to the elevation, which is not supported due to higher operation and maintenance costs and carbon emissions. In addition, they considered that major upstream network upgrades would also be required.
429. DCC 3 Waters did not support extending wastewater servicing to any sites within the area that are lower in elevation than Scroggs Hill Road, as these would require wastewater pumping. In addition, significant downstream networks upgrades would be required to the wastewater network and no funding to service the site for wastewater has been budgeted in the 10 Year Plan 2021-31. It noted that onsite stormwater attenuation would be required to ensure that there is no increase in the peak stormwater discharge rate from the site, and they raised concerns about the affordability of appropriate stormwater management for development of this land.

2.3.4.2.7 Rural productivity

430. We note that part way through our deliberations the National Policy Statement for Highly Productive Land (NPS-HPL) was released and came into effect. Mr Morrissey, in his response

to Minute 15, 16, 17 from the Panel dated 6 October 2022, advised that 0.2% of this site meets the interim classification of LUC 1-3 criteria for Highly Productive Land.

431. Due to the timing of the NPS-HPL, and for the sake of clarity, we have chosen to undertake an overall analysis of the sites requested by submitters for rezoning in terms of the NPS as a separate part of our decision, and to focus on whether the consideration of it changes any of our conclusions and decisions. This analysis is given in section 3 of this decision. We note that the analysis in that section has not materially changed our overall decision on the rezoning of this site.

2.3.4.2.8 Reporting Officer's recommendation

432. Mr Morrissey's overall view was that that this site did not meet the criteria for rezoning under Variation 2, the main concerns being transportation and 3 waters issues, and to a lesser extent the majority of RS160 had adverse landscape effects. The proposal was also considered contrary to the relevant policy matters.

2.3.4.2.9 Decision and reasons

433. We reject *Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd's (S249.001)* submission which initially sought to extend Change GF01 to include further areas within these properties including RS160, and their subsequent proposal (*S249.003*) for less dense development.
434. Based on the evidence of Mr Morrissey and Mr Watson, we do not consider that rezoning RS160 to residential is consistent with Policy 2.6.2.1, given the transportation issues for developing this site. We adopt the evidence of Mr Watson that rezoning RS160 would require significant roading improvements at the southern extent of Scroggs Hill Road, and highlight that no evidence was presented to counter the view that the transportation upgrades outlined in the section 42A report are necessary.
435. We also agree with the evidence from Mr Oliver and Mr Saunders that providing 3 waters servicing to this site is problematic and is not supported. Overall the weight of evidence overwhelmingly did not support the rezoning of this site.
436. We accept the submissions from the *Otago Regional Council (FS184.63)* and others who opposed rezoning RS160 due to a range of concerns.

2.3.4.3 53 - 127 Scroggs Hill Road (RS220)

437. This section addresses the submissions covered in section 5.2.3 of the section 42A report.
438. This group of sites collectively numbered RS220 are located on the lower slopes of Scroggs Hill, Brighton, immediately north of the existing residentially- zoned area and immediately to the south of sites GF01 and RS160. The 25ha area is currently zoned Rural Residential 1 and appears to be fully developed. There are no overlays identified on the planning maps, but the area does include a Designation (D672) relating to the Brighton Reservoir – Treated Water Reservoir.
439. The section 32 report stated that the site was originally rejected as the area was identified too late to undertake an assessment of the site or discuss any potential rezoning with landowners.

440. Mr Morrissey noted that the site is generally south facing and has a moderate to significant slope. In his view, access to public transport is reasonable, (with the nearest bus stop approximately 750m away) and reasonably close to Big Rock primary school. However, it scored poorly in relation to accessibility to centres with the nearest principal centre (Green Island) approximately 10km away and Brighton neighbourhood centre approximately 1.3km away. The site has an approximate feasible capacity of 340 dwellings at Township and Settlement zoning and approximately 88 dwellings at Large Lot Residential 1 zoning. He noted that the site ranked poorly in relation to likely carbon emissions derived from commuting. He also noted that the site has been assessed by Stantec as having a medium hazard level associated with slope instability.

2.3.4.3.1 Submissions received

441. *Richard and Rosalind Mains (S62.001)* sought to rezone the area to Residential, noting that a large proportion of the area is flat land or of a suitable gradient for building, and is in fact located closer to Ocean View and Brighton than notified site GF01.
442. *Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd (S249.007)* sought to rezone the area to Township and Settlement Zone to provide additional residential capacity, and to provide a 'link' from Brighton to sites GF01 and RS160.
443. Three further submitters (*Isak Gunnarsson, Paul Anderson, Ross McLeary*) supported the submissions promoting rezoning.
444. Seven further submitters (Otago Regional Council, Scott and Justine Weatherall, Deborah & Kevin MacLeod, Kaye Wilson, Dean Edmonds, Frances Edmonds, David Edmonds) opposed the rezoning, citing a number of concerns including stormwater management, inadequate transportation infrastructure, 3 water infrastructure capacity, insufficient power supply to the area, access issues, and that the land is overall unsuitable for residential development. Two of the further submitters also noted that 103A Scroggs Hill Road, part of RS220, is subject to covenants which limit the number of dwellings and any further subdivision.
445. We did not hear from any submitters on this site.

2.3.4.3.2 Landscape character /visual amenity

446. Mr Luke McKinlay, DCC Landscape Architect, assessed the site for zoning to both Large Lot Residential 1, and Township and Settlement Zone. He commented that, from a rural character/visual amenity perspective, Large Lot Residential zoning would be likely to result in significant visual amenity effects for existing residents, particularly on the eastern side of the road. The sites on the eastern side are approximately 2ha in area, and so could each accommodate up to 10 lots at Large Lot Residential 1 density, which would dramatically reduce the open spatial character of these sections and enclose views to the wider landscape. However, at a broader landscape scale, rezoning from Rural Residential 1 to Large Lot Residential 1 would not represent as great a change in existing landscape character as would occur within, for example, GF01, based on current development patterns. He noted that design controls would help limit the potential adverse effects on surrounding rural character values.
447. Mr McKinlay considered that Township and Settlement density in this location would create too strong a contrast with nearby or adjoining rural and rural residential areas. As viewed from existing rural residential areas on the hillslopes above Ocean View, this area would be

viewed as a broad swath of urban scale development, inconsistent with the low-key character of this small coastal settlement.

2.3.4.3.3 Biodiversity

448. An assessment of biodiversity values by Mr Kelvin Lloyd from Wildland Consultants (engaged by DCC) identified some areas of vegetation that provide a good habitat for indigenous forest birds, however they do not meet the 2GP criteria for ecological significance. However, it was considered that protecting these areas would help to provide connectivity between the remnants of indigenous vegetation in the adjacent landscape. Mr Lloyd concluded that rezoning to Township and Settlement zoning could result in adverse effects on indigenous biodiversity unless areas of existing vegetation were excluded from the rezoning or were otherwise protected. He also noted that the gully on the western side of the road should be protected from residential development and enhanced by indigenous planting.

2.3.4.3.4 Transportation

449. Mr Watson from DCC Transport provided evidence regarding transportation concerns in relation to Scroggs Hill Road. These are the same concerns as outlined for adjoining site GF01, which we have discussed earlier in this decision. In brief, Scroggs Hill Road has a hairpin curve and steep gradient from Brighton Road, along with a narrow carriageway formation. The intersection with Brighton Road is poorly aligned and makes turning extremely difficult. There are limitations on undertaking improvements to Scroggs Hill Road due to the topography, which would necessitate substantial earthworks and potentially land acquisition. The view of DCC Transport is that the significance of this transportation constraint makes rezoning and additional residential development on Scroggs Hill Road inappropriate.

2.3.4.3.5 3 waters

450. DCC 3 Waters advised that providing potable water to this site would require pumping due to the elevation, which is not supported due to higher operation and maintenance costs and carbon emissions. In addition, 3 Waters considered that major upstream network upgrades would also be required.
451. DCC 3 Waters also did not support extending wastewater servicing to any sites that are lower in elevation than Scroggs Hill Road (on either side), as these would require wastewater pumping. This is particularly problematic on the southwest side of the road. In addition, significant downstream networks upgrades would be required to the wastewater network and no funding to service the site for wastewater has been budgeted in the 10 Year Plan 2021-31.
452. Onsite stormwater attenuation would be required to ensure that there is no increase in the peak stormwater discharge rate from the site and 3 Waters raised concerns about the affordability of this.

2.3.4.3.6 Reporting Officer's recommendation

453. Mr Morrissey considered that rezoning this site would be inappropriate due to transportation and, if servicing were required, 3 waters issues. He did not recommend rezoning this site unless we were satisfied that the necessary roading upgrades were feasible. He also noted that, if rezoning were to proceed, protection of existing vegetation would be required in the area to the west of Scroggs Hill Road. He further considered that

any rezoning should be limited to Large Lot Residential 1 density which would allow for self-servicing of 3 waters and would also help lessen effects on visual amenity.

2.3.4.3.7 Decision and reasons

- 454. We reject the submissions seeking to rezone RS220.
- 455. Based on the evidence of Mr Morrissey and Mr Watson, we do not consider that rezoning RS220 to residential is consistent with Policy 2.6.2.1, given the transportation issues that exist for this site. We adopt the evidence of Mr Watson that rezoning RS160 would require significant roading improvements at the southern extent of Scroggs Hill Road, and highlight that no evidence was presented to address how this issue could be feasibly resolved.
- 456. We also acknowledge the issues with 3 waters. We understand that, at Large Lot Residential 1 density, the sites could be self-serviced for water and wastewater; however, stormwater management may still pose an issue and we also note that the feasibility or effectiveness of self-servicing has not been assessed. We further note the opposition of the ORC to this rezoning request and their tabled evidence that supported the officer's recommendation to reject the submissions seeking rezoning.
- 457. Overall, the only evidence before us does not support the rezoning request.

2.3.4.4 16 Hare Road and 7 Kayforce Road, Ocean View (GF03)

- 458. This section addresses the submissions covered in section 5.2.5 of the section 42A report.
- 459. Variation 2 proposed to rezone GF03 from Rural Residential 1 zone to Township and Settlement zone.
- 460. The section 42A report notes that the site is 3.5ha in area and is a flat, reasonably sunny, site located on the edge of Brighton. Taylors Creek passes through the site. The site has an approximate feasible capacity of 38 – 48 dwellings. The reasons for rezoning summarised in the section 42A report included that the site scored well across most of the rezoning criteria. There is access to public transport and to the nearest primary school (Big Rock). Significant issues were identified in relation to the wider transport network, as well as some 3 waters issues, but these were all considered manageable.

2.3.4.4.1 Submissions received

- 461. The *Campbell Family Trust (S192.001)* supported the proposed rezoning and for reasons such as the property has good slope, good transport connections and a pleasant outlook. The area is increasingly popular, the infrastructure in Hare Road was designed to support further residential development, and the site is suitable for much needed residential capacity.
- 462. The *Saddle Hill Community Board (S56.006)* supported the rezoning, provided that development does not put pressure on the infrastructure of existing residential dwellings and surroundings. A further submission from *Stewart Campbell (Campbell Family Trust) (FS231.2)* opposed this submission and stated that the impacts on infrastructure can be managed.
- 463. *Mike Ind (S42.001)* opposed rezoning due to issues around infrastructure upgrades, the risk of flooding from Taylors Creek, a potential increase in noise levels, loss of rural views and rural character, an increase in traffic volume and pressure on local intersections and roading.

A further submission from *Stewart Campbell (Campbell Family Trust) (FS231.2)* opposed this as it considered the issues raised by the submitter can be adequately managed. Mr Ind did not appear at the hearing.

2.3.4.4.2 3 waters

464. The DCC 3 Waters evidence was that some major upstream network upgrades may be required for potable water in the future but are not anticipated within the next 10 years. A minor network extension is required for wastewater and significant downstream upgrades are required to the wastewater network. The 10 year plan includes funding for all costs associated with extending 3 waters servicing to the site, where this is necessary. The 10 year plan also includes the majority of funding required for existing network upgrades across the city. Local connections to the 3 waters networks would be funded by the developer.

2.3.4.4.3 Hazards

465. Hazard risk was assessed by Stantec who were engaged by the Council. Stantec's advice, as outlined in the section 42A report, was that the site has medium level hazards associated with stormwater and flooding from Taylors Creek. It noted that flood hazard assessments would be required to identify the suitability (or not) of the site for higher density development, to confirm the extent and impacts of flooding, especially in relation to potential landslides impeding Taylor Creek. Hazard mitigation would likely require extensive earthworks to develop the lower lying land within this site, in order to appropriately mitigate the risk from stormwater and flooding hazards.
466. The section 42A report also noted that an NDMA is proposed to be applied to the site. This would require appropriate stormwater management, including that there is to be no increase in the pre-development peak stormwater discharge rate into any public or private stormwater system. Where this is not practicable, any adverse effects from an increase in the discharge on any public or private stormwater system are required to be no more than minor.
467. Mr Neil Johnstone, of Flood Sense Limited, attended the hearing on behalf of the submitters and presented evidence on the flood risk and effects of climate change. He concluded there was no significant flood risk and that relatively straightforward engineering solutions exist to improve the performance of the existing watercourse and to decrease the risk of stormwater related hazards. He did not consider there was a need for extensive earthworks to mitigate the low risk associated with stormwater.
468. Mr Campbell, the owner of 16 Hare Road, also tabled a statement noting that there is no history of flooding on this property.
469. In his response, Mr Paterson of Stantec considered that the assessment from Flood Sense Limited had properly addressed the flood risk for the site. He noted that a stormwater assessment and flood mitigation design will likely be required at the time of resource consent/development, but that overall the evidence provided is validation that the site is suitable for rezoning.

2.3.4.4.4 Effect on rural character and amenity

470. In response to Mr Ind's submission, Mr McKinlay's (DCC Landscape Architect) provided evidence in the section 42A report to the effect that the proposed rezoning would result in localised adverse effects on existing views from some neighbouring properties. His evidence

was that the views of the land would be replaced by a more urban outlook, however, overall, development would have limited effects on the character and amenity of the wider surrounding area.

2.3.4.4.5 *Impacts on traffic and road safety*

- 471. Mr Watson, DCC Transport, assessed that localised transport upgrades would be likely to be required, with footpaths linking to the existing footpath at the Kayforce Road/Hare Road/Edna Street intersection, as well as improvements to the intersection.
- 472. He considered an integrated transport assessment would be required at the time of subdivision to ensure transport effects are adequately considered in the final design, including any necessary improvements to the Kayforce Road/Hare Road/Edna Street intersection and the Edna Street layout. Mr Watson considered that any upgrades required would be undertaken by the developer.
- 473. Mr Watson also noted that it may be possible to link through to Kayforce Road across the land at 8 Kayforce Road and that potential road linkages between the current development site and 8 Kayforce Road should be preserved. This could be addressed at the time of subdivision.

2.3.4.4.6 *Reporting Officer's recommendation*

- 474. Mr Morrissey recommended retaining GF03 as notified subject to a new development mapped area. He considered that rezoning the site to Township and Settlement was consistent with Policy 2.6.2.1, and any matters could be appropriately addressed at the time of subdivision consent.

2.3.4.4.7 *Decision and reasons*

- 475. We accept the evidence of Mr Johnstone in relation to the potential flood hazard of the site, and the evidence of the DCC experts that the site is suitable for rezoning and any issues, including on the road network, can be managed at the time of subdivision. We agree with the Reporting Officer that application of a new development mapped area will mitigate the risk from stormwater flooding.
- 476. The evidence received for this site indicates that rezoning is able to be supported from a 3 waters, hazards, landscape, and transportation perspective. We also note the only expert planning advice we received was in support of the rezoning.
- 477. Accordingly, we reject the submission by *Mike Ind (S42.001)* opposing the rezoning. We note the submission by the *Saddle Hill Community Board (S56.006)* supporting the change provided that development does not put pressure on the infrastructure of existing residential dwellings. We accept the evidence from DCC 3 Waters that the upgrades are manageable.
- 478. We therefore retain Change GF03 as notified. As a consequential change under clause 16, we have added this site to the list of NDMAs in Appendix 12C of the Plan.

2.3.5 Brockville

2.3.5.1 23 Sretlaw Place (RS110)

479. This section addresses the submissions covered in section 5.4.4 of the section 42A report.
480. The site is located off Sretlaw Place in Brockville. The 1.9ha site is zoned Rural Hill Slopes, and is surrounded on two sides by Recreation zoning, one side by Rural Hill Slopes, and one side by General Residential 1. The Recreation zoned area includes the Frasers Gully urban biodiversity mapped area; the part of this immediately adjoining the site to the west has recently been planted by DCC in native vegetation. Frasers Creek, to the north of the site, is subject to an esplanade strip mapped area, which requires that subdivision along the bank of Frasers Creek must provide an esplanade reserve with a minimum width of 20m (Rule 10.3.1). A walking track passes between Frasers Creek and the subject site, then climbs through the replanted area to the west.
481. The section 42A report notes that the site has a very good aspect, good access to public transport, very good access to schools, but relatively poor access to centres. The site is sloping, with a mean slope of 14.8 degrees. There is a small area of high class soil mapped area located in the southwest corner of the site, adjoining the existing General Residential 1 area.
482. The section 32 report indicates that the site was rejected as the original request for rezoning was received from a potential (unsuccessful) purchaser so was not progressed. The site was subject to a second rezoning request from the new purchaser, but the request was received too late in the Variation 2 process to be fully assessed at that time.

2.3.5.1.1 Submissions received

483. *Cole Bennetts (S247.001 and S247.002)* submitted to rezone 23 Sretlaw Place to General Residential 1 and apply a structure plan mapped area (rather than a new development mapped area) over the site. Mr Bennetts attended the hearing and stated that the site is an area of isolated rural zoning and rezoning to residential provides for a logical “infill” of the residential zone. He noted that the site is close to services and public amenities and has a reasonable slope and excellent sun access. *Mr Bennetts’* submission was accompanied with a landscape assessment with two possible development plans; one for 17 residential lots and the other for 12.
484. *Mark Baker (FS160.1 and FS160.2)* supported *Mr Bennetts’* submission, with adoption of the 12-lot structure plan option.
485. *Helen & Myles Thayer (FS103.1), Jade Benfell (FS112.1, FS112.002), Jill Milne (FS119.1, FS119.2), Michael Moffitt (FS176.1, FS176.002), Ann Venables (FS19.1), Tilman Davies (FS239.1, FS239.2), Tracy and Peter Finnie (FS245.1, FS245.2), Anthony Dowling (FS25.1, FS25.2), Bryan and Catherine Moore (BK and CM Moore Family Trust) (FS39.1, FS39.002), David and Sarah Shearer (FS69.1, FS69.002), Allan Martin (FS9.1, FS9.002), and Flora Macleod (FS91.1)* opposed Mr Bennett’s submissions.
486. Three further submitters spoke at the hearing in opposition to Mr Bennetts’ submission: Mr Justin Venables on behalf of *Ms Ann Venables (FS19.1), Mr David Shearer (FS69.1 FS69.002), and Mr Myles Thayer (FS103.1)*. While all three further submitters spoke in opposition, in

response to our questions there was general agreement that they could potentially support a lower density of development on the site (around 4 – 5 lots).

- 487. Mr Venables outlined his opposition to rezoning as currently proposed, primarily due to the effects that the proposal would have on transport networks, infrastructure, natural landscapes, and adverse amenity effects for neighbours. He stated he would object to any more than 5 lots being developed on the site. He sought a number of development controls as outlined in his tabled statement.
- 488. Mr Shearer outlined his two key concerns of loss of amenity and issues around access. He noted significant concerns with all of the submitter's proposed access arrangements, and said that he would not support acquisition of the right of way attached to his property at 25 Sretlaw Place. Mr Shearer noted at the hearing that he could potentially support some Large Lot Residential 1 zoning, but is not supportive of the densities currently proposed.
- 489. Mr Thayer outlined a number of concerns regarding the access situation. He noted issues around inadequate and narrow access, existing damage, and issues around ongoing maintenance and repairs.

2.3.5.1.2 *Transport*

- 490. The majority of further submitters raised concerns regarding transportation and access issues. Most significantly was the concern that access to the site would need to be via a private road (either 18 or 25 Sretlaw Place or both).
- 491. Mr Watson of DCC Transport provided initial comment as part of the section 42A report. He agreed that access to the site is problematic as the potential access lots are both private, shared lots used by a number of existing dwellings. These access lots are not of a standard that DCC would adopt as legal roads and upgrading and widening would be required as part of a subdivision consent, with the road then vested in Council as legal road. This would require agreement from the existing owners/users. Using these lots as private accessways for the number of dwellings proposed would be contrary to Policy 6.2.3.Y of the 2GP, which requires subdivision to provide a new road where more than 12 sites are to be serviced.
- 492. In her hearing evidence on behalf of the submitter, Ms Peters acknowledged that the site is currently accessed via two rights of way. She noted that *Mr Bennetts* has had discussions with the owner of 18 Sretlaw Place regarding purchasing this right of way. She also suggested that a one way access through RS110 could be implemented, utilising the two right of ways, or that Council could compulsorily purchase the right of way required.
- 493. In his response, Mr Watson reiterated that if there is no realistic possibility for the submitter to secure access through the right of way held within 25 Sretlaw Place then it is difficult to see how the access issues could be overcome. Mr Watson did not consider that using the Public Works Act would be supported by Council. Overall, without the ability to access the site and provide for a legal road, Mr Watson was unable to support the proposed rezoning.
- 494. Subsequently, and as requested by us, Ms Peters provided legal advice on our question if the existing access to the site is an impediment to rezoning the site to residential. The advice received from Mr John van Bolderen of Wilkinson Rodgers Lawyers stated that "*Whether these two accesses and utility rights over private rights of way are sufficient for a subdivision of Lot 29 DP 345409 (23 Sretlaw Place) will be governed by the zoning and the code of*

subdivision. The issue here is the re-zoning of the land rather any actual subdivision so the subdivision plans in the Brief of Evidence by E Peters are only indicative of possible options.”.

2.3.5.1.3 Landscape, rural character, biodiversity, amenity

- 495. Several of the further submitters raised a range of concerns relating to loss of rural outlook, reduction in greenspace, impacts on natural landscape values and potential impacts on the Frasers Gully stream and track.
- 496. The original submission from Mr Bennetts included a landscape assessment prepared by Mr Hugh Forsyth (Landscape Architect) which supported the proposed development, subject to the planting recommendations being approved by Council. The assessment concluded that the short-term landscape effects would be low, and the long term landscape effects very low. Short-term visual effects would be low/moderate, and the long term visual effects low. This is based on the New Zealand Institute of Landscape Architects seven-point scale.
- 497. At the hearing, he produced an updated proposal and assessment, containing additional conditions on development. These included native vegetation on some upper slope lots, external colour restrictions for roofs and walls, and height and ground floor restrictions would also apply.
- 498. Mr Morrissey noted that the existing 2GP performance standards for residential zones (including rules for matters such as height, maximum building site coverage, and setbacks) should help manage loss of general amenity to existing residents. He also noted the advice from the Mr John Brenkley of DCC Parks and Recreation Services that, should rezoning proceed, a buffer along the northern boundary should be required along with a recreation track connecting to the existing Frasers Gully track.
- 499. Mr McKinlay assessed the impact of the site on landscape and amenity values on behalf of DCC. His view was that rezoning would result in adverse visual amenity effects on nearby residents associated with the loss of open space adjacent to the Frasers Gully reserve. He considered that the effects on wider rural character would be relatively low, given that this is a small remnant rural block adjacent to residential development. If rezoning were to occur, Mr McKinlay recommended a number of mitigation measures should be implemented, and he considered that the proposed 12-lot structure plan would integrate better with the environment than the 17-lot plan.
- 500. In his response to submitter evidence, Mr McKinlay acknowledged the submitters updated proposed conditions, but maintained his view that the effects on the visual amenity of neighbouring residents and the natural character of the gully as experienced by users of the reserve track will still be adversely affected by this proposal.

2.3.5.1.4 Hazards

- 501. Three of the further submitters raised concerns regarding hazards, most notably land instability and flooding of Frasers Creek.
- 502. The section 42A report notes that the site had been assessed by Mr Paterson of Stantec as having a low to medium hazard level associated with slope instability. He noted there are several sources of information that the site has been inundated with landslide debris and affected by landslides from other lots. While geotechnical assessment would be required at the time of subdivision, overall the site is considered developable.

503. Mr Mark Walrond of GeoSolve spoke on behalf of Mr Bennetts at the hearing and outlined his hearing evidence (Appendix 8 of Ms Peters' Planning Evidence) which was based on a visual appraisal and a desktop review of existing information. Overall Mr Walrond considered that the site is developable and there are no geotechnical issues that would prevent rezoning.
504. In his Reply, Mr Paterson of Stantec commented that the geotechnical assessment from GeoSolve addresses concerns about stability. He noted there are still a number of natural hazards on the site that will need to be mitigated through engineering design and general good earthworks practices.

2.3.5.1.5 3 waters

505. Several of the further submitters raised concerns regarding drainage, stormwater, inadequate infrastructure, wastewater servicing and disruption of natural watercourses on the site.
506. DCC 3 Waters assessed the site and advised that a minor network extension would be required for potable water supply, along with some minor network upgrades. For wastewater, a minor network extension is required; however, pumping wastewater upslope would be required, which is generally not supported. Furthermore, the wastewater flow goes to Kaikorai Valley then South Dunedin, both of which experience wastewater overflows in wet weather. Significant downstream upgrades are required to address this, and a long-term timeframe is expected.
507. Stormwater would pass into Frasers Creek then Kaikorai stream. There are known flooding issues downstream and on-site stormwater attenuation would be required. 3 Waters advised that the area of land required for stormwater management is over 20% of the total site area and this is not considered feasible.
508. Ms Peters noted that an estimate of stormwater attenuation has been undertaken by Mr Scott Cookson, surveyor for the submitter. Mr Cookson also appeared at the hearing and considered that stormwater management onsite is achievable. Ms Peters outlined proposed performance standards for stormwater management.
509. Ms Peters considered that stormwater infiltration of the wastewater network is not a reason to reject rezoning, given this is something Council is obligated to remedy. However, it may be a reason to apply a Residential Transition Overlay Zone with a site specific release relating to network upgrades.
510. In their response, Mr Oliver and Mr Saunders of DCC 3 Waters restated their view that rezoning is not supported due to wastewater and stormwater concerns. They were concerned about the lack of detail on stormwater management, and that the stormwater management proposed is unlikely to meet the new development mapped area requirements. They also provided additional information on the cumulative impacts to downstream wastewater overflows and considered that any further rezoning in the area is unacceptable until existing wastewater infrastructure constraints in Kaikorai Valley and South Dunedin are resolved.

2.3.5.1.6 Other issues raised by submitters

511. A number of other issues were raised by some of the further submitters. These included concerns about the potential fire risk due to nearby bush areas, potential land contamination

on the site from historic dumping, reverse sensitivity with respect to neighbouring 118 Brockville Road which is used as a small farm, increased trespassing, and increased walking traffic from Sretlaw Place to Frasers Creek. Mr Bennetts told us of the considerable efforts he had gone to in removing historic rubbish from the site.

512. Mr Morrissey addressed these issues in the section 42A report and did not consider that they should preclude rezoning the site.

2.3.5.1.7 Demand for residential zoned land

513. Ms Peters considered that there is a clear demand for more residential zoned capacity to be made available to the market in this area of Dunedin. She raised a number of broad issues with the housing capacity assessment which we have discussed in section 2.1.1 of the decision.

2.3.5.1.8 Reporting Officer's recommendation

514. Mr Morrissey did not recommend rezoning of RS110. This was based on concerns that access to the site is unable to be realistically achieved, and the 3 waters concerns for the site relating to wastewater and stormwater. Rezoning would therefore conflict with Policy 2.6.2.1.d.x and d.ix. He advised if that we decided to rezone, he would recommend that the subdivision be limited to 12 lots, walking access must be provided, and a vegetated buffer should be implemented along the sites northern boundary. He also recommended that a new development mapped area should be applied to the site, in order to ensure that subdivision is undertaken in a way that supports best practice urban design outcomes and achieves the strategic objectives of the Plan.
515. In his Reply, He also highlighted that there appears no opportunity to provide a legal road into the site without the use of the Public Works Act to compulsorily acquire land, which he considered that Council would be unlikely to support. Mr Morrissey responded to Ms Peters' suggestion of applying a Residential Transition Overlay Zone to the site until infrastructure upgrades were complete. Mr Morrissey did not support this approach, as DCC 3 Waters had advised that the upgrades required for the downstream wastewater network have a long term timeframe to resolve. He also noted that, while a Residential Transition Overlay Zone might be appropriate to manage wastewater issues, this will not address concerns around stormwater management or access to the site.

2.3.5.1.9 Decision and reasons

516. We reject *Cole Bennetts' (S247.001 and S247.002)* submission to rezone RS110 to General Residential 1 and apply a structure plan mapped area.
517. Our key reason for rejecting this submission, and finding the proposal inappropriate, is the inability to achieve appropriate access. The owners of 25 Sretlaw Place, David and Sarah Shearer, have indicated no intention of selling the land to Mr Bennetts. We note the legal advice from Mr van Bolderen suggested that this issue can be left to be resolved later as part of a subdivision consent. However we take little comfort in that, as a consequence of a decision to rezone this land will inevitably be that there will be expectations for development occurring, and this may well not be achievable on the evidence we heard from landowners. We agree with the Reporting Officer that using the Public Works Act to gain access to a single, relatively small, site would be an inappropriate use of those powers. We also do not understand how a one-way arrangement solves the fundamental problem.

518. A second reason for rejecting the submission is issues raised with wastewater and stormwater. We accept the evidence of DCC 3 Waters that the 'tipping point' for wastewater in the catchment has been reached, and that further development is not appropriate until these issues are resolved. We also do not consider that applying a Residential Transition Overlay Zone is appropriate, for the reasons outlined by Mr Morrissey.
519. In relation to stormwater management, we accept Mr Oliver's and Mr Saunders's advice that there is insufficient detail to ascertain whether stormwater can be satisfactorily detained on site and meet the 2GP's requirements. Overall, we do not consider that Policy 2.6.2.1.b and d.ix will be met.
520. We acknowledge the commitment and passion of Mr Bennetts to develop this site, however we consider Variation 2 is not the right process in which to rezone a site with constraints that have yet to be resolved.
521. Lastly, we received some information from Ms Peters on 16 January 2023 to indicate a site has been purchased by the submitter which, on the face of it, may provide an access into this land. However due to the receipt of this information very late in the process it was not able to be assessed by staff and evaluated by other submitters, and the Panel could not therefore place much weight on it. In any event there are other factors, other than access, that we have identified as needing to be resolved before this site can be rezoned to residential through the Variation 2 process.

2.3.6 Concord

2.3.6.1 33 Emerson Street, Concord (GF07)

522. This section addresses the submissions covered in section 5.2.9 of the section 42A report.
523. Variation 2 proposed to rezone GF07 from Rural zone to General Residential 1 zone.
524. The section 42A report describes GF07 as follows. The site is 5.8ha in size, located to the south of Concord, and adjacent to existing residential zoned land. The site is elevated and sloping to the north, providing a sunny site. It is relatively close to a high frequency bus stop and the school and the commercial services in Concord. The estimated feasible capacity is 23 – 28 dwellings under General Residential 1 zoning.
525. Mr Morrissey described the site as being relatively steep, which will reduce yield, and was assessed as having a medium level hazard associated with slope instability. He said that 3 waters and transport upgrades would be required, and no significant landscape issues had been identified.

2.3.6.1.1 Submissions received

526. *Robert Mathieson (S284.003)*, the owner of the site, submitted in support of rezoning GF07.
527. *Yolanda van Heezik (S82.010)* supported the rezoning, subject to considering ways of reducing housing footprints, protecting vegetation cover at sites adjacent to major biodiverse areas, compensatory plantings/greenspace creation and considering ways to minimise hard landscaping. *Ms van Heezik* sought amendments to reduce the loss of green space.
528. No submitters directly opposed the proposed residential zoning of GF07.

2.3.6.1.2 *Landscaping, planting and biodiversity*

529. *Yolanda van Heezik (S82.010)* supported the rezoning, subject to the matters identified above.
530. In the section 42A report, Mr Morrissey did not consider any amendments were needed to respond to *Ms van Heezik's* submission, as he considered that there is less need for minimum landscaping requirements in General Residential 1 zoned areas.

2.3.6.1.3 *Transport*

531. In the section 42A report, Mr Watson from DCC Transport provided a more detailed assessment of the site than had been done in the original section 32 assessment. He raised significant concerns about the standard of Emerson Street, which he described as typically comprising a 5.5m wide sealed carriageway with no kerb and channel, footpaths, or street lighting and with banks on both sides. He said the road has a legal width of about 25m, though much of the land within the corridor is very steep and would likely require substantial earthworks and potentially retaining walls in order to make use of it for roading purposes.
532. Mr Watson considered at a minimum the following upgrades would be required to support rezoning:
- construction of a new footpath, kerb and channel that safely links with existing infrastructure on the northern parts of Emerson Street;
 - installation of street lighting in accordance with AS/NZS1158;
 - a safety analysis to review whether any engineering intervention is required to mitigate the potential for errant vehicles to leave the road on the downhill (eastern) side; and
 - a review of new intersection location(s) and confirmation that compliant sight distances and longitudinal gradients can be achieved in accordance with NZS4404:2010.
533. In his evidence for the landowner submitter, Mr Kurt Bowen, who appeared at the hearing, considered that the carriageway could be increased to a width of 6m with a 2m wide footpath beyond that. A new kerb and channel would be constructed. He generally considered the bank modifications to be moderate and confirmed it was able to be funded by the developer. He considered a single footpath would be adequate with a pedestrian crossing point from the end of the new footpath to the existing footpath in front of 28 Emerson Street, and the need for a footpath on both sides could be considered and designed at the time of subdivision. Street lighting could be provided as part of any future development.
534. Mr Bowen agreed that a safety assessment, in respect to the risk of vehicles running off the road on the eastern side of Emerson Street, would be sensible and could be undertaken at resource consent stage. He said that, if required, a barrier solution could be implemented and the location, gradient and sight distances for any new intersection could then be determined, with only moderate earthworks likely to be required to meet the turning and gradient requirements of a new intersection.
535. In view of the evidence provided and the details presented to the Panel, Mr Watson responded to the evidence by confirming that he now considered the site was acceptable

from a DCC Transport point of view, subject to an Integrated Transport Assessment being provided at the time of subdivision.

2.3.6.1.4 3 waters

- 536. The section 32 report identified that water supply and wastewater network upgrades and stormwater attenuation would be required.
- 537. Mr Bowen confirmed that a minor network extension, funded by the developer, would be required to connect the infrastructure to the new residential sites. A 150mm diameter trunk supply main is contained within the carriageway of Emerson Street, with a 100mm water main extending up Emerson Street to a point just north of the southern extent of the site. Three 150mm diameter foul sewers terminate slightly downhill of the subject site, in the lower portion of Emerson Street.
- 538. He said that stormwater currently discharges via an overland flow, through a 225mm pipeline along Emerson Street, and then to an open watercourse. The pipe is under capacity for the expected 10 year annual recurrence interval (ARI) and the capacity of the open watercourse is unknown. Stormwater attenuation will be a required design element for any future development of this property.

2.3.6.1.5 Hazards

- 539. In the section 42A report, Mr Paterson from Stantec advised that there is a medium level hazard associated with slope instability, and a geotechnical investigation would be required prior to development.
- 540. In his evidence, Mr Bowen considered that relatively straightforward engineering solutions could be applied to manage slope instability on this gradient and accepted that a suitable geotechnical assessment would be required as part of the consent process.

2.3.6.1.6 Reporting Officer's recommendation

- 541. In his Reply Report, Mr Morrissey recommended retaining rezoning GF07 as notified.
- 542. In addition, he considered that the application of the new development mapped area should cover both GF07 and the adjacent site (RS169) as they could effectively be treated as a single site because they are immediately adjacent to one another and share the same broad characteristics.

2.3.6.1.7 Decision and reasons

- 543. For the reasons outlined in the section 42A report we accept *Robert Mathieson's* submission (S284.003) to retain Change GF07 to rezone 33 Emerson Street from Rural Coastal Zone to General Residential 1 and apply a new development mapped area. Our decisions on submissions with respect to the adjacent site (RS169) are provided in the next section of this decision report.
- 544. We consider there is sufficient evidence to satisfy us that the land can be appropriately used for residential development, taking account of the key planning and infrastructural matters referred to in evidence from experts included in the section 42A report. We are also satisfied by the evidence provided by Mr Bowen to confirm that the necessary transport and

infrastructure upgrades can be appropriately addressed at the time of subdivision and resource consent.

- 545. We note there were no submissions directly opposing the rezoning.
- 546. We reject *Ms van Heezik's* broad submission (*S82.010*) which sought amendments to reduce the loss of green space, for the reasons outlined above and also in section 2.2.8 of this Decision Report.
- 547. As a consequential change under clause 16, we have added this site to the list of NDMA's in Appendix 12C of the Plan.

2.3.6.2 41 Emerson Street (RS169)

- 548. This section addresses the submissions covered in section 5.4.12 of the section 42A report.
- 549. The section 42A report describes the site as follows. RS169 is located immediately adjacent and to the south of GF07. The site is presently zoned Rural Coastal, however there is a residentially zoned (General Residential 1) area immediately across the road. The site covers a total area of 2.4ha and is assessed as having a feasible capacity of 27 houses. This site generally slopes north, has reasonable access to public transport, very good access to a primary school, but poor access to suburban centres. The site was assessed by Stantec as having a medium level hazard associated with slope instability and geotechnical investigations would be required prior to development. No indigenous biodiversity values have been identified. DCC Parks and Recreation considered that if RS169 is rezoned, Emerson Park should be upgraded to a community facility, which would include the addition of play equipment and supporting amenities.
- 550. Mr Morrissey noted that the site had been rejected in the section 32 report as it is steep and was considered undevelopable in parts.

2.3.6.2.1 Submissions

- 551. *Victor and Fiona Nicholson (S279.003)* sought to rezone 41 Emerson Street to General Residential 1. In their submission they note that the existing driveway and commercial building presently on site demonstrates that the slope is not too challenging to develop. They considered RS169 shares many of the same characteristics as GF07.
- 552. The *Otago Regional Council (FS184.74)* opposed the development as it promotes zoning on the fringe of GR1 and Coastal Rural/RR1 areas and in areas without public infrastructure to support such density.

2.3.6.2.2 Landscape

- 553. As part of the section 42A report, Mr McKinlay, DCC's Landscape Architect, said that rezoning this site should be considered in the context of the proposed rezoning of the adjacent site at 33 Emerson Street (GF07). His advice was that if rezoning GF07 proceeds, then rezoning of 41 Emerson Street would likely be seen as a logical extension of this western part of Concord. If rezoning GF07 does not proceed, then rezoning 41 Emerson Street could be seen as a satellite node of residential development separated from nearby residential development by rural land.

554. However, if both parcels were to be rezoned, residential zoning for 41 Emerson Street would have low-moderate adverse visual amenity effects on nearby areas. He considered there would be some adverse effects on existing rural character attributes of this site which are currently influenced by a general visual dominance of natural elements over human landscape elements.

2.3.6.2.3 *Transport*

555. As part of the section 42A report, Mr Watson of DCC Transport, considered the existing transport infrastructure on Emerson Street is inadequate to accommodate the scale of proposed development. Development to the scale that is potentially feasible would likely have a significant impact on the transport network and further assessment would need to be undertaken by the submitter to further understand and evaluate these effects. Mr Watson noted that at a minimum, Emerson Street would need to be upgraded to an urban roading standard and nearby intersections would need to be assessed with the additional traffic volumes to determine what upgrades would be required.
556. In his evidence, Mr Bowen considered all transport upgrades were feasible and would be funded by the developer.
557. In his response, Mr Watson, noted that in view of the evidence provided and the details presented to the Panel, this site was now considered acceptable from a DCC Transport point of view, subject to an Integrated Transportation Assessment being provided at the time of subdivision.

2.3.6.2.4 *3 waters*

558. As part of the section 42A report, Mr Oliver and Mr Saunders considered a minor network extension is required to connect to the potable water supply and moderate upstream network upgrades are required. A minor network extension is required to connect to the wastewater network and moderate downstream network upgrades are required. The site currently discharges stormwater via an overland flow, through a 225mm pipeline along Emerson Street and then to an open watercourse. The pipe is under-capacity for the expected 10-year Annual Recurrence Interval (ARI) and the capacity of the open watercourse is unknown. Stormwater attenuation would need to be managed in accordance with the NDMA requirements (Policy 9.2.1.Y and Rule 9.9.X) so that there is no increase in the peak stormwater discharge rate.
559. Overall, the evidence was that DCC 3 Waters found the rezoning of the site is acceptable from a 3 Waters perspective.

2.3.6.2.5 *Submitter's response to the section 42A report recommendations*

560. Mr Kurt Bowen appeared at the hearing in support of *Victor and Fiona Nicholson*. He noted that this site borders GF07 (33 Emerson Street), which has been recommended to be rezoned to GR1 (subject to confirmation of the feasibility of road upgrades to Emerson Street). He said this site is very similar in size and transportation, geotechnical stability, landscape and infrastructure requirements. Mr Bowen considered that if the Panel decides to rezone GF07 they should also rezone RS169 due to those similar characteristics, and considered all upgrades were feasible and would be funded by the developer.

2.3.6.2.6 Reporting Officer's recommendation

561. In his Reply Report, Mr Morrissey retained his section 42A recommendation to rezone RS169 to General Residential 1, and apply a new development mapped area over both GF07 and RS169. He considered a single new development mapped area covering both GF07 and RS169 would provide the best outcomes in terms of stormwater management and urban design. He considered that both GF07 and RS169 could effectively be treated together as a single site, given they are immediately adjacent and share the same broad characteristics.

2.3.6.2.7 Decision and reasons

562. We accept *Victor and Fiona Nicholson's* submission (S279.003) which sought to rezone 41 Emerson Street to General Residential 1, for the reasons outlined in the section 42A report and in the Reply Report. This change is shown in Appendix 2 with the reference 'Change RS169/S279.003'.
563. Overall, having considered the costs and benefits of zoning in accordance with section 32AA, we consider that the Reporting Officer's assessment is accurate and there are benefits to arise from rezoning this land to allow residential development, just as there are for the sites included in the notification of Variation 2, and that any adverse effects are able to be appropriately managed.
564. We reject the *Otago Regional Council's* submission (FS184.74). Noting that we heard no evidence from this submitter. Our determination is that, with the rezoning of GF07 this area will now form a continuous block and rezoning both sites will make the costs of infrastructure upgrades to service the area more economic.
565. We adopt the amendment proposed by the reporting officer in his Reply Report, Appendix 1, to extend the new development mapped area that was included over GF07 in the notified plan variation to also cover RS169. This change is shown in Appendix 2 with the reference 'Change GF07/S279.003'. As a consequential change, we have also listed the NDMA in Appendix 12C of the Plan.

2.3.6.3 19 Main South Road, Concord (GF08)

566. This section addresses the submissions covered in section 5.2.10 of the section 42A report.
567. Variation 2 proposed to rezone GF08 from Rural Hill Slopes zone to part General Residential 1 zone and part General Residential 2 zone.
568. This 7.4ha site is located between Concord and the Southern Motorway (SH1) and is the site of the Dunedin City Baptist Church.
569. The section 42A report states that the site has an approximate feasible capacity of 32 – 54 dwellings. It is located very close to the Concord commercial area, primary school, and a high frequency bus stop, which makes it particularly suitable for General Residential 2 zoning in areas where the slope allows higher density development. There is a small stream in the southern part of the site with riparian planting, providing good amenity for residents. The site is moderately sloped in part and is generally elevated above Concord.

2.3.6.3.1 Submissions received

- 570. *Dunedin City Baptist Church (S239.001)* sought to rezone the whole of area GF08 to General Residential 2 zone, as they considered the site was appropriate for rezoning to GR2 and to provide for flexibility of development. They sought to remove the notified new development mapped area and to instead manage development through a structure plan mapped area, as there is a single landowner and the site is more akin to 'infill development' than 'large greenfield development'.
- 571. *Waka Kotahi (S235.008)* sought to remove Change GF08, or to consider whether additional development controls are needed to mitigate potential reverse sensitivity effects on the motorway.
- 572. *Waka Kotahi (S235.003)* also made a wider submission that has relevance to this site, requesting that rules are added to greenfield rezoning areas that are adjacent to a state highway to require that access is achieved from roads other than a state highway.
- 573. *Andrew Rutherford (S71.004)* opposed GF08 due to concerns about reverse sensitivity, including from SH1. This was supported by the *Southern Heritage Trust (FS226.3)* in a further submission.
- 574. *Yolanda van Heezik (S82.011)* supported the rezoning but sought amendments to the change due to concerns about the potential loss of green space and biodiversity.
- 575. The *Dunedin City Council (S187.029)* sought to amend the structure plan Rule 15.8.AB in relation to the management of vegetation clearance close to the stream on the southern boundary of the site.

2.3.6.3.2 Submitter's vision for the site

- 576. Mr Cameron Grindlay, the Chair of the Church Board, appeared at the hearing in support of the *Dunedin City Baptist Church's* submission. He noted that the Church is exploring options for the use of the land and how it can be used to benefit others, such as further landscaping or community gardens if funding is available. He said the vision for the development is to provide good social outcomes for the residents.

2.3.6.3.3 Reverse sensitivity to SH1

- 577. The submission of *Waka Kotahi (S235.008)* sought to remove Change GF08 or to consider whether additional development controls are needed to mitigate potential effects on the motorway. It noted that due to the unique situation of the site (a high speed area where cars are braking and accelerating), the standard 2GP acoustic insulation rules may not be sufficient.
- 578. In the section 42A report, Mr Morrissey acknowledged *Waka Kotahi's* concerns and agreed that a specific assessment should be undertaken to identify whether any additional development controls are needed to mitigate potential adverse effects from reverse sensitivity.
- 579. In his evidence, Mr Brendon Shanks, an acoustic engineer for the *Dunedin City Baptist Church*, provided a proposed structure plan and noise assessment. Mr Shanks considered that some areas of the site are far enough away from SH1 to be developed without any specific noise controls and in other areas, development would be acceptable with

appropriate mitigation. He considered that a noise barrier along the motorway could mitigate traffic noise and reduce the area of the site where controls would be required.

- 580. He supported rezoning the site to residential provided no development occurs within an identified high noise 'buffer area' and development in an identified 'effects area' achieved suitable internal noise levels. He noted that a more detailed assessment would be required at the time of subdivision to determine the location of the buffer area and effects area.
- 581. Mr Shanks noted that Waka Kotahi had not been specifically consulted but he was familiar with their guidance document and was comfortable that what he was proposing was in accordance with the guidance.
- 582. Ms Peters, appearing for the *Dunedin City Baptist Church*, in her evidence proposed that the noise controls could be implemented via a structure plan. She subsequently provided a draft structure plan rule for our consideration.
- 583. In his Reply Report, Mr Morrissey recommended amending the notified Rule 15.8.AB Main South Road, Concord structure plan mapped area to include an information requirement or rule requiring further acoustic insulation modelling, with a restriction on building within identified 'no build' areas, and acoustic insulation within 'effects areas'.

2.3.6.3.4 *Landscape, green space and biodiversity*

- 584. *Yolanda van Heezik (S82.011)* supported the rezoning but sought amendments to the change to reduce the potential loss of green space and biodiversity. *Professor van Heezik* did not attend the hearing.
- 585. We note that in response to *Professor van Heezik's* submission regarding potential loss of greenspace and biodiversity in Variation 2 intensification areas, in our first Variation 2 decision ('Change A2 Alt 3 IN-LANDSCAPE/S82.004 and others'), we imposed minimum landscaping requirements in new General Residential 2 areas. This was achieved through applying a 'Variation 2 mapped area' to these areas.
- 586. In the section 42A report, Mr Morrissey recommended applying the Variation 2 mapped area to the area to be rezoned General Residential 2, to ensure the same minimum landscape requirements would apply. At the hearing Ms Peters advised that the *Dunedin City Baptist Church* supported this approach. We agree that this is appropriate.
- 587. The *Dunedin City Council (S187.029)* sought to amend the structure plan Rule 15.8.AB in relation to vegetation clearance close to the stream on the southern boundary of the site, at Stevenson's Creek. The changes are to remove the exception relating to the maintenance of fences, and to amend the wording so that protection applies to all vegetation within 5m of water bodies and not just indigenous vegetation. Our decision on this submission is outlined in section 2.2.1 of this report.
- 588. In her evidence, Ms Peters noted that the church planned to retain the riparian planting alongside Stevenson's Creek and the *Dunedin City Baptist Church* supported the recommended amendments to Rule 15.8AB.

2.3.6.3.5 *Application of an NDMA*

- 589. In their submission, the *Dunedin City Baptist Church (S239.002)* sought to remove the new development mapped area and instead manage development through a structure plan

mapped area as there is a single landowner. They also considered that development of this site is more akin to 'infill development' than 'large greenfield development', and provision of infrastructure is adequately governed by existing performance standards in the 2GP.

590. However, Ms Peters noted that performance standards attaching to new development mapped area and pursuant to subdivision will ensure that detailed assessment and design with respect to items such as the transportation network, stormwater management, amenity plantings and community spaces will appropriately form part of the subdivision design and consent process. We take from this that the submitter does not oppose the application of the new development mapped area overlay which will implement these things.
591. In the section 42A report, Mr Morrissey noted the proposed structure plan for GF08 is included in Rule 15.8.AB of the 2GP only includes performance standards relating to vegetation clearance. He agreed with Mr Oliver and Mr Saunders (DCC 3 Waters) who had recommended that the proposed new development mapped area should remain on the site, particularly if the entire site were to be rezoned to General Residential 2, to ensure an appropriate and integrated stormwater management approach.

2.3.6.3.6 Reporting Officer's recommendation

592. Mr Morrissey did not oppose extending General Residential 2 zoning over more of the site, provided this included a requirement for a further, more detailed acoustic assessment being undertaken at the time of subdivision. He recommended this be included within Rule 15.8.AB - Main South Road Concord Structure Plan Mapped Area Performance Standards. He maintained his recommendation that a new development mapped area should be applied, for the reasons outlined above.

2.3.6.3.7 Decision and reasons

593. We accept the *Dunedin City Baptist Church submission (S239.001)* to rezone the whole of GF08 to General Residential 2 zone, subject to the structure plan rules relating to vegetation clearance and acoustic assessment. We are satisfied that the issues raised in relation to rezoning the site can be addressed, as discussed below. The evidence was that the site is close to services and meets the requirements of both policies 2.6.2.1 and 2.6.2.3. Having considered the benefits and costs of rezoning, we are satisfied that providing for more intensive development will better achieve the objectives of the plan overall.
594. We accept in part the submission from *Yolanda van Heezik (S82.011)* which supported rezoning but sought amendments due to concerns about the potential loss of green space and biodiversity. We adopt the Reporting Officer's recommendation to apply a 'Variation 2 mapped area' over GF08, these amendments are shown in Appendix 2 with the reference 'Change GF08/S239.001'.
595. We understand that the *Dunedin City Baptist Church* no longer opposes the new development mapped area which we retain as notified based on the Council's expert evidence. As a consequential change under clause 16, we have added this site to the list of NDMAs in Appendix 12C of the Plan.
596. We reject the submission from *Andrew Rutherford (S71.004)* that opposed the rezoning due to concerns about reverse sensitivity. As discussed below, in response to the *Waka Kotahi* submission, we have implemented a structure plan rule requiring an acoustic assessment is

undertaken at the time of subdivision and this should address the main thrust of *Mr Rutherford's* concerns.

597. We accept in part the submission from *Waka Kotahi (S235.008)* which sought to remove Change GF08, or consider whether additional development controls are needed to mitigate potential reverse sensitivity effects on the motorway. We adopt the Reporting Officer's recommendation to amend 15.8.AB Main South Road Concord Structure Plan Mapped Area Performance Standards to include an information requirement requiring further acoustic insulation modelling, with a restriction on building within identified 'no build' areas, and acoustic insulation within 'effects areas'. This amendment is shown in Appendix 1 with the reference 'Change GF08/S235.008'.
598. With respect to the submission from *Waka Kotahi (S235.003)* which sought to add rules for rezoning areas adjacent to state highways that require access is achieved from roads other than a state highway, we note that the effects on the safety and efficiency of the transport network (including state highways) is already considered as part of the subdivision application as per Rule 6.11.2.7.a.Z. We consider this rule is adequate to address this concern and we therefore reject S235.003.
599. We have removed notified Rule 15.8.AB.2 under clause 16 as this has been superseded since notification by Rule 15.8.1.
600. We also note that changes to the part of the structure plan rule relating to vegetation clearance have been considered above in section 2.2.1.
601. We consider that the amendments made as a result of our decision appropriately balances the costs with the benefits of an improved development outcome, in accordance with section 32AA of the RMA.

2.3.6.4 Blackhead Road and surrounds (RS157)

602. This section addresses the submissions covered in section 5.4.7 of the section 42A report.
603. *Craig James and Kirsten Jane Duncan (Duncan Clan Family Trust) (S304.001)* sought to rezone 90 Blackhead Road and 70 Green Island Bush Road. 90 Blackhead Road is located close to Tunnel Beach Road, approximately 500m from the nearest residentially zoned area at Concord. It is a 2.2ha property, currently zoned Rural Residential 1 and surrounded on all sides by Rural Residential 1 land. The section 42A report notes that it is relatively distant from the nearest centres, being approximately 3,530m from the Caversham suburban centre and approximately 1,660m from the Corstorphine neighbourhood centre.
604. 70 Green Island Bush Road is a 2.4ha property currently zoned Rural Residential 1. It is surrounded on three sides by other Rural Residential 1 zoning, and on one side by Rural Coastal zoning. It is approximately 313m from the nearest residentially zoned area.
605. Mr Morrissey noted that in the section 32 report 90 Blackhead Road was originally rejected as development of this area would require significant 3 waters infrastructure upgrades which are not programmed or funded for the short to medium term. 70 Green Island Bush Road was not assessed in the section 32 report, as this was proposed via a submission.

2.3.6.4.1 Submissions received

606. In their submission, *Craig James and Kirsten Jane Duncan (Duncan Clan Family Trust)* noted that rezoning these sites would increase housing capacity. The submission states that there is scope for additional dwellings in this area, provided effects on the transport network and landscape character and amenity are appropriately managed. The submitter proposes managing wastewater on-site to reduce strain on the reticulated wastewater network.
607. The submission was supported by a further submission from *Craig Duncan (Duncan Clan Family Trust) (FS59.1)*, which states that the land is generally not used for productive farming and that the roading network could accommodate the modest growth in vehicles. A further submission in support was also lodged by *Charles Pearce (FS45.1)* on the grounds that the city requires additional housing and, in his view, Large Lot Residential zoning would not spoil the area.
608. *Melissa and Patrick Fuller (FS169.1) and others* opposed rezoning 90 Blackhead Road and 70 Green Island Bush Road due to concerns about loss of rural character and amenity, both for local residents and those visiting attractions in the area, such as Tunnel Beach.
609. We note that despite the submission being for Large Lot Residential 1, Mr Bowen's evidence on behalf of the submitters indicated that the sites would be best suited to Large Lot Residential 2 zoning. He provided a proposed development plan at this zoning, indicating four additional sites on 90 Blackhead Road and five additional sites on 70 Green Island Bush Road based on the proposed Large Lot Residential 2 zoning.

2.3.6.4.2 Landscape, green space and biodiversity

610. In the section 42A report, Mr Morrissey advised that, in his view, development of higher density housing, albeit at a large lot residential scale, would inevitably result in a change in character and loss of amenity.
611. Mr Bowen, on behalf of *Craig James and Kirsten Jane Duncan (Duncan Clan Family Trust)*, noted he was unable to locate any Variation 2 reporting relating to landscape and biodiversity for the two sites. Both sites have extensive boundary plantings, which reduce the opportunity for adverse visual amenity effects. 70 Green Island Bush Road is in a visually recessive location. He advised further planting could be undertaken should it be deemed necessary for mitigation. In his view, there were no landscape issues relating to the sites.
612. We did not hear any evidence or statements from the further submitters in opposition on this matter.

2.3.6.4.3 Transport

613. In his Reply Report, Mr Morrissey noted that DCC Transport has no overriding transport objections to rezoning RS157.
614. Mr Bowen noted that Blackhead Road is a Collector Road and in his view the road has capacity to service the additional sites. Green Island Bush Road is a local road and is constructed to a reasonably high standard. Access to the sites will utilise the existing vehicle entrances, which provide satisfactory sight lines in both directions. He considered the number of vehicle movements resulting from the additional building platforms were not expected to create any adverse effects on the roading network that are more than minor.

615. He noted the bus terminus in Middleton Road is 1.2km from 90 Blackhead Road, which equates to a 15 minute walk or short cycle trip. Furthermore, he considered that this site scored above average on the 'commute related carbon emissions' table.

2.3.6.4.4 3 waters

616. In the section 42A report, Mr Morrissey advised that providing 3 waters services to this site would be an inefficient and ineffective use of public infrastructure given the extensions required to reach the site. It would therefore be in conflict with Policy 2.6.2.1.d.ix.
617. The submitters considered that on-site servicing is appropriate, that is, roof collection for potable water, septic tank discharge for wastewater and discharge to ground for stormwater. Mr Bowen noted that if stormwater management is required to control flows that pass across the site boundaries, this could be easily achieved through the installation of on-site detention tanks.
618. In his Reply Report, Mr Morrissey advised that DCC 3 Waters did not identify any significant issues with the ability for the sites to self-service for water supply, wastewater or stormwater.

2.3.6.4.5 Compact city objective

619. The section 42A report states that both sites are disconnected from existing residentially zoned land, being surrounded by rural residential and rural zoned land. Mr Morrissey's view was that rezoning isolated and disconnected pockets of land is in conflict with Policy 2.6.2.1.d.xi, which requires Dunedin stays a compact and accessible city.
620. Mr Bowen considered that rezoning the property to Large Lot Residential 2 would provide a graduated west-to-east transition between the Rural Residential Zone and the nearby General Residential 1 zone. His view expressed at the hearing was that the area would eventually be intensified and zoned for residential use over time.
621. We asked whether the ORC had any plans to extend the bus routes to this area, however, Mr Morrissey advised that he had been informed there were no plans at this time.

2.3.6.4.6 Other matters

622. Mr Bowen noted the land had limited value for rural productivity and rezoning RS157 Large Lot Residential 2 would provide for more housing choice.
623. Mr Craig Duncan appeared at the hearing in support of his submission and noted that 90 Blackhead Road is a great place to live, offers a good lifestyle and is close to amenities. The land is not used for productive purposes.
624. Mr Barry Waugh, the owner of 70 Green Island Bush Road, noted similar reasons for seeking to rezone the land, including that the property is too large to maintain.

2.3.6.4.7 Reporting Officer's recommendation

625. Mr Morrissey recommended against zoning RS157 to Large Lot Residential, due to clear conflicts with Policy 2.6.2.1. In particular, he considered that rezoning pockets of land that are isolated and disconnected from existing residentially zoned land is in direct conflict with Policy 2.6.2.1.d.xi and 2.6.2.1.c. He advised he was not convinced that Policy 2.2.4.1, which

outlines the criteria for Large Lot Residential zoning, could be met for this site and overall he did not consider that rezoning to large lot residential density would be the most efficient long-term use of the land.

2.3.6.4.8 Decision and reasons

- 626. We reject *Craig James and Kirsten Jane Duncan's (Duncan Clan Family Trust) submission (S304.001)* to rezone the land, and the further submissions in support (*Craig Duncan (Duncan Clan Family Trust) (FS59.1)* and *Charles Pearce (FS45.1)*).
- 627. We agree with the Reporting Officer's evidence that rezoning isolated and disconnected pockets of land conflicts with Policy 2.6.2.1.d.xi, as it fails to maintain a compact city and does not reflect sustainable managed urban expansion.
- 628. While we acknowledge Mr Bowen's view that the area may ultimately be developed at a more intensive residential scale, that is not currently proposed or feasible, based on 3 Waters' evidence. We refer to our discussion earlier (see sections 2.1.2.3 and 2.1.4), in which we outline our views on the importance of maintaining a compact city and that strong reasons are necessary to justify rezoning to large lot zoning as part of Variation 2.
- 629. In our view, the provision of on-site wastewater servicing on its own is not enough to meet Policy 2.2.4.1. If this area is ultimately to be developed for residential use, the most efficient use of the land (General Residential 1 zoning at a minimum) should be employed. Using large lot zoning as an interim approach is unlikely to allow for more efficient development at a later date.
- 630. We accept the further submissions of *Melissa and Patrick Fuller (FS169.1)*, *Ross Smail (FS212.1)*, *Roy Mckeay (FS213.1)*, *Dan and Liz Koni (FS61.1)* and *David and Ruth Matika (FS68.1)* who opposed rezoning.

2.3.7 Fairfield and Green Island

2.3.7.1 127a Main Road, Fairfield (GF04)

- 631. This section addresses the submissions covered in section 5.2.6 of the section 42A report.
- 632. Variation 2 proposed to rezone GF04 from Rural Hill Slopes zone to General Residential 1 zone.
- 633. GF04 is 1.3ha in size and is located in Fairfield, adjacent to the Southern Motorway (SH1). Part of the site is zoned General Residential 1, and part is zoned Rural. The southern rural zoned part of the site is proposed to be rezoned to General Residential 1.
- 634. The section 42A report outlines that there is access to Main Road, Fairfield, through the General Residential 1 zoned part of the site. Under General Residential 1 density, the site has an estimated feasible capacity of 15 – 36 dwellings. The site adjoins Fairfield School and is close to a high frequency bus stop. The site is small and slopes steeply to the south, adjoining the motorway on one side, with two gullies / lower lying land on the site, likely limiting feasible development. Some 3 waters upgrades are required, however Mr Morrissey noted in Appendix C that these were considered manageable. The site is 3km from the nearby Green Island centre, although there is a dairy and takeaway in Fairfield.

2.3.7.1.1 Submissions received

- 635. *Jose Corporation Ltd (S64.003)*, the owners of 127a Main Road, supported rezoning GF04 from Rural Hill Slopes zone to General Residential 1 and associated changes.
- 636. The *Saddle Hill Community Board (S56.004)* supported the rezoning, provided that development does not put pressure on the infrastructure of existing residential dwellings and surroundings.
- 637. *Waka Kotahi (S235.003 and S235.011)* sought to amend Change GF04 to add rules for greenfield rezoning areas that are adjacent to a state highway, to require that access is achieved from roads other than a state highway.
- 638. *Andrew Rutherford (S71.003)* opposed the rezoning, raising concerns regarding proximity to the motorway and the potential for reverse sensitivity issues. *The Southern Heritage Trust (FS226.2)* supported this submission.

2.3.7.1.2 Reverse sensitivity to SH1

- 639. In the section 42A report, Mr Morrissey noted that as per Rule 15.5.1 Acoustic Insulation, noise sensitive activities within 40m of a state highway must comply with Rule 9.3.1, which means requiring key rooms in a house to have acoustic insulation.
- 640. In his evidence for *Jose Corporation Ltd*, Mr Anderson considered that the matters raised by *Andrew Rutherford* concerning proximity to the motorway and reverse sensitivity issues would be addressed by the acoustic insulation rule for noise sensitive activities.
- 641. In his Reply Report, Mr Morrissey noted that parts of the site are very close (<10m) to SH1. Consistent with his recommendation for site GF08 (see section 2.3.6.3), Mr Morrissey recommended that a structure plan mapped area rule be added to the plan, requiring an acoustic insulation assessment be undertaken as part of a subdivision application, with a restriction on building within identified 'no build' areas, and acoustic insulation within 'effects areas'.

2.3.7.1.3 Transport

- 642. As noted above, *Waka Kotahi (S235.003)* sought to amend Change GF04 to add rules requiring that access be achieved from roads other than a state highway. They did not appear at the hearing or provide any statement of evidence, however the Panel understands the principals of roading hierarchy embodied in their submission. They also submitted in support of rezoning, provided other points in their submission were adopted.
- 643. In his evidence for *Jose Corporation Ltd*, Mr Anderson noted that the first decision on Variation 2 includes new assessment guidance as follows:

Rule 6.11.2.7.a.Z:

Council will consider the effects of subdivision and subsequent development on the safety and efficiency of the state highway network and may require written approval from Waka Kotahi NZ Transport Agency.

- 644. Mr Anderson considered that that the 2GP rules are adequate to manage the site's proximity to the state highway.

645. In his Reply Report, Mr Morrissey advised that no further information or conversations have been had between DCC and *Waka Kotahi* regarding this site, and as *Waka Kotahi* had not attended the hearing or tabled any evidence it is not clear what site-specific provisions *Waka Kotahi* would consider appropriate in addition to access being from the side road for site GF04.

2.3.7.1.4 3 waters

646. The *Saddle Hill Community Board (S56.004)* did not appear, and did not provide any statement of evidence to support its submission relating to development not putting pressure on the infrastructure of existing residential dwellings and surroundings.
647. The section 42A report indicates that the required infrastructure upgrades for potable water supply and wastewater servicing are funded through the 10 year plan.

2.3.7.1.5 Reporting Officer's recommendation

648. Mr Morrissey recommended rezoning GF04 to General Residential 1. Additionally, as was notified, a new development mapped area would be applied over the entirety of 127a Main Road. Both the area proposed for rezoning (GF04) and the existing area zoned General Residential 1 would therefore be covered by the same new development mapped area in order to ensure good stormwater management, and best practice outcomes for the subdivision to provide consistency in approach for greenfield areas across the city.
649. He also recommended a structure plan mapped is applied requiring an acoustic assessment to be undertaken at the time of subdivision, as discussed above.

2.3.7.1.6 Decision and reasons

650. For the reasons outlined in the section 42A report we reject the submission from *Andrew Rutherford (S71.003)* that opposed rezoning. However, in response to the concerns raised regarding reverse sensitivity and, on the advice of the Reporting Officer, we have implemented a structure plan rule requiring an acoustic assessment is undertaken at the time of subdivision. These changes address the main thrust of Mr Rutherford's concerns. We consider that this amendment appropriately balances, in accordance with section 32AA of the RMA, the costs to developers with the benefits of an improved overall development outcome. This change is shown in Appendix 1 with the reference 'Change GF04/S71.003'.
651. We reject *Waka Kotahi's submission (S235.003)* which sought to amend Change GF04 to add rules requiring that access is achieved from roads other than a state highway. We agree with Mr Morrissey and Mr Anderson that this is appropriately addressed at the time of resource consent through existing assessment guidance in Rule 6.11.2.7.a.Z. We note there will be a requirement to contact *Waka Kotahi* as part of subdivision consent under Rule 6.11.2.7.
652. We accept in part *Waka Kotahi's submission (S235.011)* to retain Change GF04 provided other points in this submission are adopted. The other submission points in *Waka Kotahi's* submission covered a broad range of topics and sites, and did not relate to requiring additional acoustic assessments or insulation. Our decision on several of the *Waka Kotahi* submission points is contained in our first decision report, and we note that several of the submission points were rejected. Therefore, while not all of *Waka Kotahi's* submission points have been adopted, no further information or evidence was provided by *Waka Kotahi* and, in the absence of this, we consider that the existing rules are appropriate.

- 653. With respect to the submission by the *Saddle Hill Community Board's submission (S56.004)* we note Mr Oliver's and Mr Saunder's evidence that the required 3 waters upgrades are planned and funded through the 10 year plan, and so this submission point can be accepted.
- 654. As a consequential change under clause 16, we have added this site to the list of NDMA's in Appendix 12C of the Plan.
- 655. We note that part way through our deliberations the National Policy Statement for Highly Productive Land (NPS-HPL) was released and came into effect. GF04, while covered in LUC-3 soils, does not meet the interim criteria of highly productive land outlined in clause 3.5(7) of the NPS-HPL, as GF04 is subject to a Council initiated notified plan change seeking to rezone it (clause 3.5(7)(b)(ii)) and is therefore not subject to the NPS-HPL. Nevertheless, we discuss the loss of productive land, which was a broad issue raised by Mr Miller, in section 2.2.6 and we acknowledge it as a factor that we considered for this site in making our decision. On balance however, we consider the benefits of rezoning outweigh the relatively small loss of high class soils at this location.

2.3.7.2 Parts 353 Main South Road, Sunnyvale, Fairfield (GF05 and GF05a)

- 656. This section addresses the submissions covered in section 5.2.7 of the section 42A report.
- 657. Variation 2 proposed to rezone GF05 from Rural Residential 2 Zone to General Residential 1 Zone.
- 658. GF05 is a 11ha site located in Fairfield. It is on a fairly steep south facing slope, with a flatter plateau at the top, adjoining the Grandvista subdivision in Abbotsford. The estimated feasible capacity is 49 – 70 dwellings under General Residential 1 zoning. The site adjoins an area zoned Industrial on Main South Road.
- 659. Mr Morrissey's section 42A report advised that the lower part of the site is close to a high frequency bus stop, is reasonably close to the Green Island centre, and has good access to schools. Potential costs associated with development at the site include hazards (particularly to the east of the site), nearby scheduled mining activity (Fairfield Sandpit No. 3), loss of a small area of mapped high class soils, and existing safety issues at the North Taieri Road/Severn Street intersection. 3 waters upgrades are required to develop the land.
- 660. As notified, the site is proposed to be subject to a new development mapped area and a structure plan mapped area (Rule 15.8.Y). This will manage potential geotechnical hazard issues on part of the site and require a comprehensive geotechnical investigation report prior to any subdivision.

2.3.7.2.1 Submissions received

- 661. Four original submissions were received in support of the proposed rezoning: *Alex King (S129.003)*, *Ron Balchin (S204.002)*, *Ron and Sue Balchin (S229.002)*, and *Paul and Michelle Barron (S294.002)*. *Ron and Sue Balchin* and *Paul and Michelle Barron* also support the addition of the structure plan mapped area provisions at Rule 15.8.Y (*S229.004* and *S294.006*), and related changes to Rule 11.6.2 (*S229.006* and *S294.007*) and Rule 15.12.3 (*S229.007* and *S294.008*).

- 662. *The Saddle Hill Community Board (S56.005)* supports rezoning, provided that development does not put pressure on the infrastructure of existing residential dwellings and surroundings.
- 663. *Ron Balchin (S204.001)* submitted seeking to extend the area of GF05 to the east (GF05a). *Mr Balchin* seeks that a single building platform is provided on the remaining part of 353 Main South Road.
- 664. *The Dunedin City Council (S187.027)* submitted to amend GF05 as it relates to Rule 11.6.2.1.i. A further submission from the *ORC (FS184.511)* opposed this submission on the basis that the requested change makes the rule less clear and less certain.
- 665. *Name Withheld C (69.005)* submitted broadly opposing the wastewater package of changes in Variation 2, although the submission appears to relate exclusively to wastewater effects that might arise from the rezoning of GF05. A further submission from the *ORC (FS184.104)* opposed this submission.
- 666. A number of submitters opposed rezoning GF05 entirely or submitted that, if the change is not rejected, that it is amended, primarily to mitigate against reverse sensitivity and reduce amenity impacts to existing residents.

2.3.7.2.2 *Submitters that appeared in support of the rezoning*

- 667. Mr Kurt Bowen spoke on behalf of *Paul and Michelle Barron* at the hearing. These submitters previously owned the neighbouring Grandvista subdivision land and are supportive of the rezoning proposal. He noted that provision was made for a roading connection between Grandvista and the area of GF05 at the time of the Grandvista subdivision.
- 668. Ms Emma Peters spoke on behalf of *Ron and Sue Balchin* and outlined the rezoning proposal. She was accompanied by Mr Mark Walrond from GeoSolve.

2.3.7.2.3 *Reverse sensitivity*

- 669. Submitters in opposition to the notified rezoning, located in close proximity to GF05, raised concerns regarding the potential for reverse sensitivity. There is both Industrial zoning and a Scheduled Mining Activity located immediately adjacent to the rezoning site. Concerns raised relating to reverse sensitivity included noise, vibration, odour and lights.
- 670. In the section 42A report, Mr Morrissey noted that residential activities within 20m of an industrial zone must comply with Rule 9.3.1, which requires acoustic insulation. He also noted that, due to the slope of the land, it is unlikely that dwellings would be located close to the boundary of the industrial zoning. In relation to the scheduled mining activity, he advised that the existing Grandvista subdivision is located immediately north of GF05 and is likewise located adjacent to the Scheduled Mining Activity. There is no setback in place for the Grandvista subdivision, and dwellings have been located close to the boundary. Mr Morrissey concluded that it seems unlikely that effects on dwellings in GF05 would differ from those in Grandvista.
- 671. Ms Peters addressed this in her evidence, and commented that the submitters are proposing a performance standard be included in the structure plan rules that requires residential units to be located a minimum of 12m from the boundary of GF05 with either 375 Main South Road (Industrial Zone) or 377 Main South Road (Scheduled Mining Activity).

672. In his Reply, and in response to a question we posed, Mr Morrissey noted that there was a single noise complaint lodged against these adjacent properties – in November 2017 there was a noise complaint relating to 375 Main South Road regarding noise from a chainsaw and bandsaw. He recommended that Ms Peters' 12m buffer requirement be implemented via the structure plan to address the concerns of submitters relating to reverse sensitivity.

2.3.7.2.4 Transportation

673. A number of submitters raised concerns about the potential impacts of additional traffic on the local roading, including on the southern motorway at peak times. Various concerns relating to subdivision access, including safety concerns, were also raised.
674. In the section 42A report, Mr Watson of DCC Transport reviewed the submissions and provided additional assessment of the site. He considered that a development of this size is unlikely to have significant impacts on the wider transport network. He noted that Waka Kotahi had not raised concerns relating to the rezoning in terms of impacts on the motorway. Mr Watson recommended that a connecting road linking Severn Street with Main South Road should be a requirement in the proposed structure plan, but that the details and design can be assessed further at the time of subdivision. He noted that 48 Severn Street was specifically set aside for a future roading connection at the time of the Grandvista plan change. Overall, Mr Watson advised that he was able to support the rezoning proposal from a traffic and transportation perspective.
675. In her evidence, Ms Peters commented that the submitters agree that a link road between Severn Street and Main South Road should be provided. She proposed that the link road should be aligned to follow an existing easement for water.

2.3.7.2.5 General amenity

676. Submitters raised a wide range of concerns relating to various general amenity issues. These included concerns that social housing and denser development would lead to increased crime, noise and light pollution. Concerns about the ability to construct two storey housing, loss of sunlight and privacy, loss of trees, and insufficient infrastructure and schooling in the area were also raised.
677. In the section 42A report, Mr Morrissey responded to the various concerns raised. He noted that GF05 sits on a lower slope than the existing houses along Tate Crescent and Severn Street in the Grandvista subdivision, and therefore building platforms will generally be lower than existing houses. He also noted that GF05 has a generally south or south westerly aspect and its potential to block sunlight to residences to the north is limited. With respect to loss of trees, he noted that the existing trees could be felled by right regardless of the rezoning proposals and are not protected through Plan rules. Mr Morrissey did not consider that an additional 49 – 70 dwellings would be likely to cause any significant additional infrastructure capacity issues. He also noted there are a number of schools in the area. Overall, Mr Morrissey did not consider any of the submitters' concerns relating to general residential amenity were sufficient justification to not rezone the site.

2.3.7.2.6 Landscape, rural outlook, biodiversity

678. Submitters raised concerns relating to loss of rural aspect and potential impacts the development could have on wildlife, in particular native birds.

679. Mr McKinlay, DCC Landscape Architect, considered that as the area is surrounded by industrial and residential land uses, the effects of residential development of this site on wider surrounding landscape character are relatively low. However, there would be adverse visual amenity effects from residents to the north when compared to the status quo. Mr McKinlay recommend that creating a new enlarged greenspace along the northern boundary of GF05 may help to address concerns from nearby residents, or alternatively consideration could be given to limiting dwelling heights within sections adjacent to existing residential activity.
680. In the section 42A report, Mr Morrissey acknowledged the recommendations of Mr McKinlay and stated that the provision of an outdoor amenity space would be dealt with at the time of subdivision. He did not consider it appropriate to require greenspace along the entire northern boundary, nor to limit dwelling height. He considered that there is not sufficient justification to implement setbacks and height restrictions that differ from those that apply to other General Residential 1 zoned land.
681. Ms Peters confirmed in her evidence that she agreed with Mr Morrissey's statement.

2.3.7.2.7 3 waters

682. In relation to Name *Withheld C's (S69.005)* concerns about changes to wastewater provisions in Variation 2, Mr Morrissey noted that a decision on this submission was already made in our first decision report (section C.4.7.1). He also noted that a number of 3 waters upgrades would be required with respect to GF05, but these are considered achievable.

2.3.7.2.8 Hazards

683. Mr Morrissey noted that none of the submitters and further submitters for the GF05 had discussed natural hazards. Some limited geotechnical information had been provided by the landowner prior to the site's notification, and that this had resulted in the notified structure plan rules.
684. Stantec's assessment for DCC was that both GF05 and GF05a (to the east) are in the high level hazard category associated with slope instability with a precedent for land instability.
685. In response, Mr Mark Walrond of GeoSolve provided a geotechnical assessment report on the property on behalf of *Ron and Suzanne Balchin*. At the hearing, Mr Walrond stated that the extensive test pitting undertaken showed favourable geotechnical conditions on those test sites, and there is no reason the sites (GF05 and GF05a) could not be used for residential activity.
686. Mr Paterson, Stantec, in his review of that geotechnical report commented that it appropriately discusses the land stability hazards of the site. Mr Paterson agreed with the GeoSolve report that the land of 353 Main South Road outside of the Miller Street landslide appears to be developable, subject to further investigation and geotechnical advice at the time of subdivision. However, Mr Paterson did not consider, from a hazards perspective, it was appropriate to rezone GF05a, due to the high risk of landslide as this area was located within the Miller Street landslide area. He also raised concerns about the area consisting of a "gully feature" located within GF05.

2.3.7.2.9 Submission seeking an amendment to rules managing development in GF05

687. The *Dunedin City Council (S187.027)* sought that Change GF05 is amended as it relates to Rule 11.6.2.1.i as follows:

~~"In the Hazard 2 (land instability) Overlay Zone and any Restricted Development Area (Hazard), a~~ A report by a suitably qualified person confirms that the risk to the activity, or resulting from the activity, will be no more than low."

688. The amendment was proposed so that the rule accurately covers all consenting situations that are directed to this rule. The *ORC (FS184.511)* opposed this submission on the basis that the proposed change makes the rule less clear and less certain such that there is no clarity about what type of report a person is obtaining if the reference to hazards is removed.
689. Mr Morrissey recommended accepting *The Dunedin City Council's* submission S187.027, but that the wording should be amended to make it clearer, as requested by the *ORC*.

2.3.7.2.10 Reporting Officer's recommendation

690. In his Reply, Mr Morrissey stated that, based on the geotechnical assessment from GeoSolve and review from Stantec, he was satisfied that GF05 is suitable for rezoning to General Residential 1, subject to a new development mapped area (as notified) and structure plan mapped area rules requiring:
- A 12m buffer from adjoining mining/industrial land, to manage reverse sensitivity issues;
 - A road connection linking Severn Street with main South Road; and
 - A requirement for a geotechnical assessment at the time of subdivision across all areas of GF05.
691. However, he did not recommend rezoning GF05a based on Stantec's advice on the geotechnical issues pertaining to that land
692. In Appendix 2 of his Reply, Mr Morrissey provided a clarification on the recommendation above. He noted that, due to the presence of the Miller Street landslide, it could be problematic constructing a linking road. In light of this, he amended his recommendation to require provision of a pedestrian/cycling connection between Severn Street and Main South Road, as well as a requirement for the developer to investigate a secondary access point at the time of subdivision, rather than requiring a connecting road to be constructed. This would be required as part of an Integrated Transport Assessment (ITA) at the time of subdivision.

2.3.7.2.11 Decision and reasons

693. We accept in part the submissions from *Alex King (S129.003)*, and *Paul and Michelle Barron (S294.002)* *Ron Balchin (S204.002)* and *Ron and Sue Balchin (S229.002)* to rezone GF05, for reasons set out below, but in general we are satisfied that the effects of development on this site can be managed such that it is appropriate and consistent with Policy 2.6.2.1. Accordingly, we reject the submissions that opposed rezoning of GF05, however, we have made some amendments to the notified proposal to better manage the potential for adverse effects from development of the site.

694. We accept the hazards evidence provided by GeoSolve and reviewed by Mr Paterson, that rezoning GF05 is acceptable from a hazards perspective. We note this addresses the key concern of Mr Morrissey from the section 42A report. We also note that Mr Morrissey, in his Reply, recommended inclusion of a structure plan rule requiring a geotechnical assessment at the time of subdivision across the entirety of GF05. This differs from what was notified, where a geotechnical report was only required for part of the GF05 area (this consisted of the area adjacent to the Miller Street landslide area and the “gully feature” of the site). We agree with Mr Morrissey’s recommendation in this regard. This change is shown in Appendix 1 with the reference ‘Change GF05/S97.001’, a submission in opposition.
695. We agree with Mr Morrissey and Ms Peters that implementing a buffer from adjacent industrial and Scheduled Mining Activity land is appropriate to assist with mitigation against the potential for reverse sensitivity. We therefore accept in part the submissions that raised concerns regarding reverse sensitivity. Our decision is to implement a structure plan rule requiring a 12m buffer with adjoining mining/industrial land. This change is shown in Appendix 1 with the reference ‘Change GF05/S45.001’. We also accept the planning evidence from both planners that this land is not so different from other residentially zoned sites with potentially sensitive uses nearby that any further mitigation measures over and above the increased setbacks are required to address potential reverse sensitivity effects.
696. We agree with the evidence of Mr Watson and Mr Morrissey that rezoning can be supported from a transportation perspective, provided certain matters are addressed through a structure plan. This will include consideration for a connection linking Severn Street with Main South Road. A second access is preferable, given the number of sites but we acknowledge the potential constraints imposed by the Miller Street landslip. We agree, therefore, with the proposed requirement that that an Integrated Transport Assessment (ITA) is undertaken and a second access point is considered at the time of subdivision. We do consider, however, that at a minimum, pedestrian and cycle access is constructed connecting Severn Street with the subdivision (and ultimately Main South Road).
697. Based on Mr Watson’s evidence the need for a pedestrian crossing on Main South Road, as requested by a submitter, is a matter that can be dealt with and assessed at the time of subdivision and consequently does not need to be included at this stage as a structure plan requirement.
698. These changes are shown in Appendix 1 with the reference ‘Change GF05/S97.001’.
699. We accept the submission from *The Saddle Hill Community Board (S56.005)* supporting rezoning provided development, noting that based on the evidence we received to the effect that while 3 waters and transport upgrades are required these are manageable. Based on this, and consistent with our first decision in part C.4.7.1 of our first decision report, we reject the submission from *Name Withheld C (S69.005)*.
700. We reject the submission from *Ron Balchin (S204.001)* requesting an additional area, GF05a, be rezoned. We base our decision on the evidence of Mr Paterson who considered the risk of developing this area from a natural hazards perspective to be high.
701. We accept the submission from *The Dunedin City Council (S187.027)* to amend Change GF05 as it relates to Rule 11.6.2.1.i, noting that this same change was also requested in relation to an intensification area (IN07) through another submission (S187.028) that was addressed in Part B.4.7.4 of our first decision. No further amendments are required as these have already been implemented.

- 702. We have removed notified Rule 15.8.Y.2 under clause 16 as this has been superseded since notification by Rule 15.8.1
- 703. As a consequential change under clause 16, we have added this site to the list of NDMA's in Appendix 12C of the Plan.
- 704. We consider that the amendments made as a result of our decision appropriately balances the costs with the benefits of an improved development outcome, in accordance with section 32AA of the RMA.

2.3.7.3 Weir Street, Green Island (GF06)

- 705. This section addresses the submissions covered in section 5.2.8 of the section 42A report.
- 706. Variation 2 proposed to rezone GF06 from Rural Coastal zone to General Residential 1 zone.
- 707. The section 42A report notes that GF06 is 5.8 hectares in size and comprises 27 Weir Street and part of 1 Allen Road, Green Island. Under General Residential 1 zoning, the site has an approximate feasible capacity of 32 - 72 dwellings. It is close to Green Island centre, and its services and schools, and a bus route. The site is gently sloping with a north-west aspect. There is a small area of high class soils present on the site.

2.3.7.3.1 Submissions received

- 708. One broad submission was received on GF06. *Yolanda van Heezik (S82.008)* supported the rezoning, subject to considering ways of reducing housing footprints, protecting vegetation cover at sites adjacent to major biodiverse areas, compensatory plantings/greenspace creation and considering ways to minimise hard landscaping. *Ms van Heezik* sought amendments to reduce the loss of green space.

2.3.7.3.2 Reporting Officer's recommendation

- 709. In the section 42A report, Mr Morrissey noted that there are no submissions that directly opposed Change GF06, and he recommended that the site be rezoned as notified, including applying a new development mapped area and the high class soils mapped area.
- 710. The section 42A report identifies some 3 Water and Transport issues, which Mr Morrissey considered would be manageable.
- 711. He did not recommend that the amendments proposed by *Professor van Heezik* be implemented for this site. For further discussion on this broad submission, see section 2.2.8.
- 712. We did not hear from any submitters in relation to this site.

2.3.7.3.3 Decision and reasons

- 713. The section 42A assessment and supporting evidence does not indicate any issues with this site that would suggest zoning is inappropriate. Based on the evidence received we are satisfied that rezoning the site to residential is consistent with Policy 2.6.2.1.
- 714. We note that we have addressed Ms van Heezik's submission in section 2.2.8.

715. Consequently we retain Change GF06 as notified. As a consequential change under clause 16, we have added this site to the list of NDMA's in Appendix 12C of the Plan.

2.3.8 Helensburgh and Halfway Bush

2.3.8.1 41-49 Three Mile Hill Road, Halfway Bush (GF09)

716. This section addresses the submissions covered in section 5.2.11 of the section 42A report.
717. This area is comprised of a small group of existing, developed sites on Three Mile Hill Road near Dalziel Road. The sites are zoned Rural Residential 1, each of approximately 2,000m² in area. The proposal is to amend the zoning to Large Lot Residential 1, to reflect the size of the sites and the existing development. The sites are outside the area serviced by DCC for water and wastewater (they are currently self-serviced) and this situation would continue under the proposed rezoning. This is reflected in the proposed addition of a 'no reticulated wastewater mapped area' to the planning map.

2.3.8.1.1 Submissions received

718. *Alice Wouters (S311.001) and Keep Halfway Bush Semi Rural Inc (S197.001)* sought that change GF09 be removed due to concerns it would set a precedent for more rezoning to large lot residential in the area, resulting in more intensified subdivision and development in the future. Their concerns also included stormwater run-off and flooding and the impacts to the Dunedin Branch Pony Club located across Three Mile Hill Road from these properties.

2.3.8.1.2 Submitters response to the section 42A recommendation

719. *Ms Alice Wouters* appeared at the hearing in support of her submission and expanded on her concerns that rezoning this land would set a precedent for further rezoning and development in the area and her concerns regarding the flood risk due to stormwater run-off and natural springs in the area. She also discussed concerns around traffic safety and the loss of rural character resulting from further development.
720. *Ms Valerie Dempster* also appeared at the hearing on behalf of *Keep Halfway Bush Semi Rural Inc*. *Ms Dempster* highlighted similar concerns to *Ms Wouters* and noted that there was significant flooding in the last rainfall event in July 2022 at Ashburn Clinic and in Fraser's Gully. She also raised issues in relation to a lack of drainage and 3 waters servicing in the area. She considered that more weight should be given to effects on the existing land uses of the Ashburn Clinic and Pony Club over new development.

2.3.8.1.3 Reporting Officer's recommendation

721. Mr Morrissey's evidence was that rezoning GF09 to Large Lot Residential 1 would not set a precedent for further rezoning of rural residential zoned land or further residential development. He noted that the proposed rezoning reflects the existing land use and site size (2,000m²) and no subdivision potential is enabled by the rezoning. In his view, future residential rezoning requests in the Halfway Bush area would be subject to the criteria outlined in Policy 2.6.2.1 and would be considered on their own merits.

2.3.8.1.4 Decision and reasons

722. We acknowledge the views held by *Ms Wouters* and *Keep Halfway Bush Semi Rural Inc* in relation to further development in the Halfway Bush area. However, we accept Mr

Morrissey's evidence that Change GF09 will not provide for additional development potential, and that any future rezoning would need to meet Policy 2.6.2.1 and would be considered on its merits.

- 723. We are clear that that this rezoning has its own circumstances (existing developed sites with no potential for intensification) and will not set a precedent for any future rezoning. In our view, this change is a sensible and pragmatic approach to recognise the existing development pattern, with no obvious negative impacts. It also has the benefit of meaning that additions or alterations to the existing dwellings will come within a more appropriate zoning rules framework.
- 724. For these reasons, we reject the submissions of *Alice Wouters (S311.001)* and *Keep Halfway Bush Semi Rural Inc (S197.001)* to remove Change GF09, and retain Change GF09 as notified.

2.3.8.2 Honeystone Street, Helensburgh (GF10)

- 725. This section addresses the submissions covered in section 5.2.12 of the section 42A report.
- 726. Variation 2 proposed to rezone GF10 from Rural Hill Slopes zone to Large Lot Residential 1 zone. A structure plan (the Honeystone Street structure plan) was also notified for GF10 to manage indigenous vegetation clearance.
- 727. GF10 is 9ha in size and adjoins existing residential development close to Wakari Road. The site also adjoins the Flagstaff – Mount Cargill Significant Natural Landscape Overlay Zone (SNL) to the north and is traversed by a small creek with riparian planting. It is close to a high frequency bus stop, the Helensburgh neighbourhood centre and Wakari School. The estimated feasible capacity if this site is 28 – 29 dwellings.
- 728. The notified change includes provision of a new development mapped area, and a structure plan mapped area to manage vegetation clearance.
- 729. The section 32 report stated that the presence of the stream, bush areas, a gully and areas of steep slope mean that General Residential 1 density is not possible over part of the site, and the site was therefore notified for Large Lot Residential 1 zoning.

2.3.8.2.1 Submissions received

- 730. *Susan Yule (S27.001)*, *Anna-Lynn Milliken (S52.001)*, *Tony Purvis (S147.002)*, and *Malcolm Owens (S166.002)* supported the proposed rezoning. The reasons given for support included that the site has good proximity to services and the central city, is flat and developable land, has limited primary productive potential, and is relatively hidden from other parts of the city.
- 731. *Merrin Brewster (S145.002)* and *Murray and Gloria Harris (S272.001)* supported the rezoning but requested amendments or new provisions to manage effects as discussed below.
- 732. We did not hear from any submitters in relation to this site.

2.3.8.2.2 Lot size

- 733. *Murray and Gloria Harris (S272.001)* submitted that a larger minimum site size of 2,500m² – 3,000m² would be more practical when considering the landscape and local terrain.

734. In the section 42A report, Mr Morrissey considered that retaining a minimum site size of 2,000m² (Large Lot Residential 1) is appropriate, as a higher minimum site size may constrain effective use of the land.

2.3.8.2.3 *High class soils*

735. *Murray and Gloria Harris (S272.001)* wished to retain the high class soils mapped area to recognise the production value of the area. Of note, Mr Harris is an environmental consultant specialising in environmental farm planning with a particular focus on soil management, land use capability mapping, and farm forestry.
736. Mr Morrissey did not directly address this in the section 42A report. However, in his opening statement, Mr Morrissey acknowledged that rezoning would result in a loss of high class soils over GF10, but he considered this loss to be relatively minor GF10 given its small size and location.
737. While not directly addressed by Mr Morrissey, we note that there are no LUC 1-3 soils present on the site, and the site is therefore not covered by the transitional provisions of the NPS-HPL and the NPS is therefore not directly relevant.

2.3.8.2.4 *Urban design controls*

738. *Merrin Brewer (S145.002)* requested that new buildings be required to have external cladding and colours that blend into the hillside to maintain the rural outlook.
739. In the section 42A report, Mr Morrissey noted that the site had been assessed by Mr McKinlay who considered that the proposed rezoning would likely have some visual amenity effects on nearby properties associated with the loss of rural outlook. Mr McKinlay considered it reasonable to place some control on external materials of buildings to prevent the use of highly reflective materials or colours.
740. Mr Morrissey acknowledged the submitter's concern and the recommendation of Mr McKinlay. However, he did not recommend controls on external cladding be implemented as he considered this would be inconsistent with other localities across the city, and did not consider there is sufficient justification for requiring special or bespoke controls in relation to this site.
741. In her Reply Report, Ms Christmas further discussed the use of bespoke design controls, and noted that there is no existing policy framework for these in the 2GP. Additionally, she noted the high costs to implement, the quite localised benefit of such controls, and raised concerns about the inconsistency of approach should such controls be implemented. We further discuss this matter in section 2.1.6.

2.3.8.2.5 *Other issues*

742. *Merrin Brewer (S145.002)* sought that the impact on bird life is monitored due to a potential increase in predation associated with an increase in domestic pets. She also noted that Wakari Road is subject to ice in winter, making it impassable at times.
743. Mr Morrissey acknowledged that an increase in domestic pets may have an impact on surrounding birdlife, and is a consequence of rezoning any greenfield site. We further discuss the impacts of urbanisation and pets on wildlife in section 2.1.7.

- 744. Mr Morrissey noted that the DCC continually monitors the performance of the roading network from a maintenance perspective but icing of the road surface was not considered by DCC Transport to be a significant concern from a rezoning perspective.
- 745. Whilst not specifically raised as a concern in submissions, the section 42A report notes that part of the site has a medium level hazard associated with slope instability, and geotechnical assessment would be required prior to development. It also states that the site can be serviced for drinking water and wastewater, but that stormwater attenuation would be required.

2.3.8.2.6 *Reporting Officer's recommendation*

- 746. Mr Morrissey recommended that Change GF10 is retained as notified noting that there were no submissions specifically opposing the proposed residential zoning.
- 747. In his Reply Report he also noted that, as a result of his recommendation on GF11, there is potential that a roading connection from GF11 through to Honeystone Street may be necessary. If this is required, an amendment to the structure plan adopted for that site (if approved) would be required to allow two crossing points over the stream, through the vegetated area. Mr Morrissey provided proposed drafting for this in Appendix 2 of his Reply.

2.3.8.2.7 *Decision and reasons*

- 748. We note for this site there were no submitters who opposed the rezoning to residential in principle but there were some submitters who sought a lower level of development and/or further design controls on development. We also note there were broad submissions opposed to all greenfield sites that we discuss in section 2.2.2.
- 749. We heard no evidence that firstly rezoning of these sites to residential would be inappropriate, and secondly there was no expert evidence to suggest that a lower density of development is required. We accept the DCC's evidence that the notified rezoning is consistent with Policy 2.6.2.1. We also consider that Large Lot Residential 1 zoning as notified is appropriate due to the presence of the stream, bush areas, a gully, and areas of steep slope and that this is consistent with Policy 2.2.4.1.
- 750. We reject in part the submissions from *Merrin Brewster (S145.002)* and *Murray and Gloria Harris (S272.001)*. We accept the evidence of the Reporting Officer that requiring larger minimum lots sizes may be counter to making effective and efficient use of the land. We also accept Ms Christmas' evidence, discussed more fully in section 2.1.6, that bespoke design controls on housing outside of landscape protection overlays are generally not appropriate. We acknowledge Mr McKinlay's evidence but do not agree in this case that controls are justified, as the impacts on visual amenity will be limited to nearby properties and will not be significantly adverse.
- 751. We also agree with Mr Morrissey that the impact of the loss of rural productive land from development of this site will be minor. We do not agree with *Murray and Gloria Harris* that the high class soils mapped area should be retained on this site as, to be consistent with elsewhere in the plan, either an amendment to the earthworks provisions related to high class soils to exempt them applying to this site or removal of the overlay would be required to allow the site to be developed. Our preference is for the latter and we note that this formed part of the notified change GF10.

752. Finally, given our decision on site GF11 (see section 2.3.8.3), we agree with Mr Morrissey that amendments to the Honeystone Street structure plan are necessary to allow for a potential second crossing point into GF11. We note that a connection into the Honeystone Street structure plan mapped area could be necessary if alternative access arrangements are unable to be secured. We are therefore proactively making this change to allow a connection should this become necessary. This change is shown in Appendix 1 with the reference 'Change GF10/S196.002'. While this change is shown against GF10, we consider that the submissions which specifically raised traffic and transportation concerns with respect to GF11 provide appropriate scope to implement this amendment.
753. We consider that this amendment appropriately balances the costs with the benefits of an improved transportation development outcome, in accordance with section 32AA of the RMA.
754. We have removed notified Rule 15.8.AA.2 under clause 16 as this has been superseded since notification by Rule 15.8.1.
755. As a consequential change under clause 16, we have added this site to the list of NDMA's in Appendix 12C of the Plan.
756. We also note that changes to the part of the structure plan rule relating to vegetation clearance have been considered above in section 2.2.1.

2.3.8.3 Polwarth Road and Wakari Road, Helensburgh (GF11, GF11a)

757. This section addresses the submissions covered in section 5.2.13 of the section 42A report.
758. Variation 2 proposed to rezone GF11 from Rural Residential 2 Zone to General Residential 1 Zone. GF11 is a large area (23.3ha) situated along the north side of Wakari Road extending to the Ross Creek reserve. It is currently zoned Rural Residential 2 and adjoins an existing Residential Transition Overlay Zone (RTZ) area on the north side of Wakari Road. The Flagstaff – Mount Cargill Significant Natural Landscape Overlay Zone (SNL) adjoins the land to the north. A small part of GF11 extends across Wakari Road to the south. The site is adjoined by residential zoned land to the south and east.
759. The area is generally gently sloping. The western part of the site is within 500m of a high frequency bus stop, and the site is reasonably close to the Helensburgh neighbourhood centre and Wakari School. The site has relatively easy access to the central business district via Taieri Road. The site has significant development potential (estimated capacity of 240 – 308 dwellings).

2.3.8.3.1 Submissions on GF11

760. *Bill Morrison (S13.002)* and *Grant Motion (S241.001)* submitted to retain the area to be rezoned under Change GF11, but remove the notified new development mapped area and instead apply a structure plan mapped area. *Gillian Thomas (S154.005)* submitted to retain Change GF11 as it relates to the part of 297 Wakari Road that is included in Change GF11.
761. Merrin Brewster (S145.001), John Kidston (S103.001), Gillian Thomas (S154.001), Jim and Patsy Loughton (S200.001) and John Hurley (S222.001) supported the rezoning but sought some amendments or raised issues of concern that should be addressed.

762. A number of submissions opposed the rezoning, with some proposing amendments should the change not be rejected. While these submissions in opposition are on the proposed change as a whole, many focused on the zoning and subsequent development of 195 Wakari Road. Concerns included loss of open space and the 20m encumbrance strip that runs along 195 Wakari Road immediately behind the existing houses, loss of rural outlook, transportation and access issues, provision of 3 Water infrastructure, stormwater run-off, impacts to biodiversity, loss of high class soils, minimum site size, inadequate other infrastructure and lack of design controls. Almost all the submissions raising concerns were opposed by a further submission from *John Kidston (on behalf of the Kidston Family (FS123))*, owner of 195 Wakari Road.
763. Three submissions were received seeking to amend the boundary of the rezoning area. *John Hurley (S222.001)* sought to exclude the creek on his property at 301 Wakari Road due to flooding issues. *Gillian Thomas (S154.001, S154.002, S154.003, S154.004)* sought to extend the rezoned area to include part of 297 Wakari Road at its southernmost end (GF11a) and as a consequence, remove the SNL and high class soils mapped area and apply a new development mapped area to this land. *John Kidston (S103.001)* submitted to amend GF11 to extend the proposed GF11 zoning to the top of the site boundary of 195 Wakari Road.
764. At the hearing, Mr Darryl Sycamore presented planning evidence on behalf of *JKS Paddock Limited*, owner of 195 Wakari Road. He provided a concept plan showing 61 new residential lots on 195 Wakari Road. He did not support the original recommendation from Mr Morrissey in the section 42A report which was to apply a Residential Transition Overlay Zone over the GF11 area, rather than directly rezoning the land as was notified. Mr Ben Kidston, on behalf of the Kidston family, owners of the site, also attended the hearing and tabled a statement.
765. Ms Emma Peters presented evidence on behalf of *Mr Grant Motion*, and spoke at the hearing regarding *Mr Motion's* property at 312 Wakari Road. Ms Peters outlined a proposed development of 11 new residential lots plus a balance lot. Ms Peters opposed the section 42A report recommendation to apply an RTZ to the site. *Mr Motion*, owner of the site, also spoke at the hearing.
766. Two submitters in opposition spoke at the hearing, *Mr Brent Hastie* and *Mr Neil Brown*. Their evidence is discussed in relation to the issues outlined below.

2.3.8.3.2 *Landscape, rural character and amenity and the potential removal of the existing encumbrance*

767. A number of submitters opposed rezoning because of the potential loss of existing landscape, rural character and amenity values. Additionally, submitters raised issues in relation to the potential loss of a 20m encumbrance strip that runs along the boundary of 195 Wakari Road between 165 Wakari Road and 205 Wakari Road. One submitter sought new design controls on the new housing.
768. *Mr Neil Brown* spoke at the hearing and outlined concerns relating to loss of green space, impacts to visual amenity, and other impacts to general amenity. *Mr Brent Hastie* also spoke at the hearing regarding his concerns about loss of rural atmosphere.
769. Mr McKinlay, DCC Landscape Architect, advised that, whilst the site is not highly prominent when viewed from hill suburbs, it forms an important transition between neighbouring residential areas and the adjacent SNL hillslopes. He considered that the adverse effects of

rezoning on exiting rural rural/residential character values are likely to be moderate-high at a local level. Mr McKinlay recommended that Large Lot Residential scale development may be more appropriate in parts of the site, particularly parts adjacent to the SNL (195 and 245 Wakari Road) and Ross Creek Reservoir (311 Wakari Road). He also recommended consideration should be given to implementing low impact urban design and development principles.

770. In the section 42A report, Mr Morrissey acknowledged Mr McKinlay's recommendations, but did not recommend bespoke design controls be implemented. He noted that the 2GP does not use bespoke design controls in residential zones (only in landscape overlays), and he did not consider that it would be appropriate to make an exception for GF11. He considered that roadside planting may be appropriate, but this is best dealt with at the time of subdivision and this is a matter that is required to be considered as part of the NDMA overlay. He noted that DCC Parks and Recreation had assessed the site and recommended a separate outdoor public amenity space of 5,000m² be provided in a central location within the site. In the section 42A report Mr Morrissey considered it would be appropriate to apply a RTZ over the area of GF11, with a site specific release rule that would ensure funding is in place for both the reserve, and the transportation upgrades (discussed later).
771. Mr Sycamore considered that upgrading Bain Park is a more appropriate option rather than requiring an entirely new recreation area. Mr Kidston was not supportive of Mr McKinlay's suggestion to implement some Large Lot zoning on the site, as this would restrict the site's full development potential to be realised.
772. Mr McKinlay reviewed JKS Paddock Limited's proposed subdivision design for 195 Wakari Road and noted this included larger lots at the higher points of the site. He considered that if provision were made for larger lots in this area (approximately 1,000m²) and street trees at suitable densities then Large Lot Residential zoning would not be required. In his Reply Report, Mr Morrissey agreed with the recommendation from Mr McKinlay and recommended a structure plan be applied which would require a larger minimum site size in the more elevated areas of 195 and 245 Wakari Road and limit density in these areas, along with provision of a 5,000m² reserve, and a requirement for an amenity tree planting plan.
773. In her Reply Report, Ms Christmas further discussed the use of bespoke design controls, and noted that there is no existing policy framework for these in the 2GP. Additionally, she noted the high costs to implement, the localised benefit of such controls, and raised concerns about the inconsistency of approach should such controls be implemented. We further discuss this matter in section 2.1.6.

2.3.8.3.3 Biodiversity

774. Several submitters raised concerns about the potential loss of birds, animals and plants in the area from an increase in residential development.
775. *Mr Brent Hastie* spoke at the hearing and outlined his opposition to rezoning. One of his key concerns related to potential impacts to biodiversity and birdlife in the area.
776. A further submission from *John Kidston (on behalf of the Kidston Family)* noted that regeneration of a large, bushed gully to the west of the site with native planting is proposed. Design controls are also proposed that would require hedging and other plantings.

777. Mr Morrissey advised that no significant biodiversity values needing protection have been identified on the site. He considered that any wildlife displaced would be accommodated in the surrounding areas of bush and SNL.

2.3.8.3.4 Transportation

778. Several submitters raised concerns regarding transportation, including an increase in traffic along Wakari Road, emergency service access, road maintenance in winter, provision for cyclists and pedestrians, difficulty in turning in and out of the private right of way, the narrow width of the road, lack of footpaths and difficulty navigating the Helensburgh Road intersection. One submitter opposed rezoning unless the bus service is extended along Wakari Road.
779. *Mr Neil Brown* spoke at the hearing and outlined concerns relating to transport and access relating to 195 Wakari Road. He noted that they have been approached by the developer to give up part of their land which forms the right of way, but he is not willing to do this for the current proposal. *Mr Brown* stated he is potentially open to a lower density development, but not the current General Residential 1 proposal.
780. The section 42A report identifies a number of existing roading constraints and upgrades that would be required, based on evidence from Mr Watson of DCC Transport. Substantial footpath construction and road widening is required along Wakari Road, and it is possible that land acquisition may be necessary to achieve this. The report also noted that nearby intersections would need upgrading. Provision for public transport may need to be reviewed, along with construction of cycling facilities. Road access through 195 Wakari Road to other parts of the wider site would be desirable but could be problematic to achieve due to the constrained width of the existing access, and the location of the right of way referred to above immediately adjacent.
781. Initially, in the section 42A report, Mr Morrissey had recommended that a RTZ is applied to GF11, with a site-specific release rule that would require a cost sharing agreement to be in place to cover preparation of an ITA, undertaking the necessary roading upgrades, and providing a recreation reserve (as discussed in section 2.3.8.3.2 above) or that funding for these matters is included in the 10 year plan.
782. To ensure connectivity through the area, Mr Watson recommended that a structure plan should require a road connection to the Honeystone Street rezoning area (GF10, see section 2.3.8.2) should access not be possible via 195 Wakari Road, and also a requirement to provide access into the area through 245 and 297-301 Wakari Road.
783. Ms Peters discussed transport infrastructure upgrades with respect to 312 Wakari Road. Her evidence was that wider transport network upgrades are the responsibility of Council, and these are not sufficient justification for the application of a RTZ over 312 Wakari Road or the balance of GF11. She noted that Mr Motion is prepared to form pedestrian access along the frontage of 312 Wakari Road. She considered that local transport effects can be dealt with on a case-by-case basis at the time of subdivision.
784. Mr Sycamore provided a site layout plan that relies on use of the right of way in a combined access road into both 195 Wakari Road and serving the existing houses adjoining it. In his view, this overcame concerns about the narrowness of the existing access, and the location of two accesses immediately next to each other. He noted that the encumbrance is now proposed to be retained by the developer.

785. He considered the subdivision process has sufficient rigor, including the need to obtain an ITA, to ensure local transport effects are sufficiently understood and managed at that time. He considered that a connection with Honeystone Street would provide little benefit, and would require various consents from the ORC which may or may not be approved. Mr Sycamore also noted that the site layout concept plan provided for Wakari Road was future-proofed by providing for connections to adjoining land. Mr Sycamore did not consider there was a need to apply a RTZ to either the subject site or the wider GF11.
786. In response Mr Watson commented that while the combined access into 195 Wakari Road looked suitable, there is no certainty that the developer has control over the full extent of the land in order to implement the proposal. If they are unable to implement the access proposed, then a connection with Honeystone Street would be necessary. Mr Watson stressed that the site should be developed comprehensively, and the evidence at this stage was not sufficient to justify not applying a RTZ from a transport perspective.
787. In his Reply, Mr Morrissey no longer considered it necessary to apply a RTZ to the site. This is because an ITA has been progressed by the DCC and the offsite roading upgrades will be undertaken by DCC with the costs recovered through development contributions. He considered other matters, including requiring subdivision to be in accordance with an indicative roading layout to ensure good connectivity, could be adequately addressed via a structure plan for the site.

2.3.8.3.5 3 waters

788. Several submissions raised concerns around the provision of 3 waters infrastructure and stormwater management.
789. *Mr Neil Brown* spoke at the hearing and outlined concerns relating to increased surface runoff.
790. DCC 3 Waters advised that stormwater management will be required in accordance with the new development mapped area rules. It also noted that the 10 year plan includes funding for all costs associated with extending 3 waters servicing to new sites, and for a number of network upgrades across the city. The timing of the works will depend on the availability of contractors, the proposed timing of development, and the relative priority against other sites being developed.
791. Ms Peters considered that stormwater management is feasible for 312 Wakari Road and the submitter now supports the new development mapped area provisions, provided there is a separate new development mapped area for each side of Wakari Road. This reflects the topography, which means that sharing of infrastructure from one side of the road to the other is unlikely.
792. Mr Sycamore also confirmed that the submitter supports the new development mapped area; however he considered that a separate new development mapped area should apply to each site, so that landowners wishing to develop are not reliant on other landowners.
793. In response, Mr Oliver and Mr Saunders considered the appropriate boundaries for new development mapped areas. These should match hydrological catchments as they are used for stormwater management. They agreed with Ms Peters that 312 Wakari Road is physically separated from the balance of GF11 in terms of stormwater and therefore a discrete new development mapped area over only this site could be supported. Likewise, 296 Wakari Road

is also separate, but given its small size they advised that a new development mapped area is not necessary. However, they advised that 280 Wakari Road (also on the south side of Wakari Road) is hydrologically connected to the part of GF11 north of Wakari Road, and therefore should remain part of that new development mapped area. Mr Morrissey noted in his Reply that DCC 3 Waters were not supportive of a separate new development mapped area over 195 Wakari Road only, as 195 Wakari Road is hydrologically connected to the other parts of GF11 on the northern side of Wakari Road.

794. In his Reply Report, Mr Morrissey did not recommend that submissions seeking to remove the new development mapped area be accepted. He maintained that this method is appropriate to ensure the site is developed appropriately. However, based on DCC 3 Waters advice, he recommended that two separate new development mapped areas are applied, reflecting the hydrological catchments, with no NDMA over 296 Wakari Road.

2.3.8.3.6 High class soils

795. One submitter, Murray and Gloria Harris (S272.002), wished to retain the high class soils mapped area to recognise the productive value of the area. Of note, the submitter is an environmental consultant specialising in environmental farm planning with a particular focus on soil management, land use capability mapping, and farm forestry.
796. In the section 42A report, Mr Morrissey acknowledged Mr Harris' expertise and advice that the site contains LUC Class 3 soils but noted that these are not recorded on the New Zealand Land Resource Inventory, on which the 2GP data maps are based. He acknowledged that rezoning to residential would result in the loss of the productive potential in this area. However, he also considered that the area is likely to have a relatively low potential for rural productivity as it lies immediately adjacent to existing residential areas and is currently zoned Rural Residential 2 and largely divided into smaller lots. Based on a report by Property Economics and Beca completed as part of the section 32 report, Mr Morrissey considered that while there will be a loss of rural productivity from the high class soils, this loss would be relatively minor.
797. While not directly addressed by Mr Morrissey, as there are no currently mapped LUC 1-3 soils present over the site and the site is also subject to a Council initiated plan change, the site is not covered by the transitional provisions of the NPS-HPL.

2.3.8.3.7 Minimum site area

798. A number of submitters sought that, if the area is rezoned, the minimum site size is increased from the notified General Residential 1 (400m²). The requested minimum site sizes ranged from 600m² to 3,000m².
799. As discussed earlier, Mr Morrissey recommended some small areas of GF11 are rezoned to Large Lot Residential 1. However, for the remainder of GF11, while he acknowledged that rezoning to a lower density might retain a more open character, the area would still have a residential character and a lower density would not achieve the most efficient use of the land. He considered that rezoning the majority of the site to General Residential 1 would enable provision of a range of lot sizes and would make the required infrastructure upgrades more economically feasible.

2.3.8.3.8 Extension of area

800. Three submitters requested small amendments to the notified boundary of GF11.

801. *John Hurley* sought to exclude the creek on his property at 301 Wakari Road from the rezoned area due to the potential for flooding. Mr Morrissey sought advice from Stantec who considered that the flooding risk is relatively minor and could be addressed through the subdivision process. Consequently, Mr Morrissey did not recommend the amendment. He also noted there are existing 2GP rules that require a setback from creeks.
802. Mr Morrissey recommended that the submission from *Gillian Thomas* seeking to extend a small extra part of 297 Wakari Road (GF11a), and consequential realignment of the SNL be accepted. He stated that Mr McKinlay was not opposed to the requested changes.
803. Mr Morrissey also recommended accepting the submission from *John Kidston* seeking to extend the proposed GF11 zoning to the northern boundary of 195 Wakari Road. He stated that Mr McKinlay was not opposed to the requested extension and consequential realignment of the SNL.

2.3.8.3.9 *Reporting Officer's recommendation*

804. In his Reply Mr Morrissey considered that the GF11 rezoning generally met the criteria specified in Policy 2.6.2.1 and this land was therefore suitable for rezoning to residential. He recommended that 311 Wakari Road is zoned Large Lot Residential 1 to create a less abrupt transition with the adjacent Ross Creek reservoir. He recommended that structure plan rules require a larger minimum lot size (1,000m²) and controls on density in the more elevated areas of 195 and 245 Wakari Road. He also recommended that the structure plan should require future subdivision to be in accordance with an indicative roading layout to ensure good connectivity, require a 5,000m² recreation reserve, and require an amenity tree planting plan at subdivision.

2.3.8.3.10 *Decision and reasons*

805. We reject the submissions that opposed the rezoning of GF11. We accept the recommendations of the Reporting Officer, based in part on the evidence of other DCC reporting staff, that the site is appropriate for residential use and rezoning is consistent with Policy 2.6.2.1. We note that no submitters in opposition gave evidence that the land was fundamentally unsuitable for residential zoning. We note and accept that the Reporting Officer no longer recommends application of a Residential Transition Overlay Zone, although the matter of funding of transportation upgrades and the provision of a 5,000m² recreation reserve remain unclear.
806. We accept the submissions from both *Gillian Thomas* and *John Kidston* who sought to extend the area of GF11 (GF11a and the northern part of 195 Wakari Road). We note that neither of these requested extensions is large, and we adopt the evidence of *Mr McKinlay* that the landscape effects of these extensions would be minor and that it would be appropriate to amend the location of the SNL at these localities. These amendments have been assigned change references 'Change GF11/S154.001' and 'Change GF11/S103.001' respectively.
807. We reject the submission from *John Hurley* seeking to exclude land beside the creek on 301 Wakari Road due to flooding issues. We agree with Stantec's evidence that the risk of flooding is minor and can be appropriately addressed through the subdivision process.
808. We acknowledge the concerns of submitters who raised issues relating to impacts to biodiversity. However, we note that no significant biodiversity values have been identified

as present, and we consider the impact of rezoning on indigenous biodiversity to be limited, and not a sufficient reason to reject rezoning.

809. We accept in part the submissions that requested the minimum site size is increased. We agree with the Reporting Officer that Large Lot Residential 1 zoning is appropriate for 311 Wakari Road so as to create a less abrupt transition between residential and the adjacent vegetated area, and we note no submitters disagreed with this at the hearing. We consider that the Large Lot Residential area is consistent with Policy 2.2.4.1 due to the need to protect landscape or natural character values. This amendment is shown in Appendix 2 with the reference 'Change GF11/S225.001'. For the same reason, we agree with the Reporting Officer that minimum site size and density in the elevated areas of 195 and 245 Wakari Road should be managed through a structure plan, and accept Mr McKinlay's recommendation that a 1,000m² minimum site size is appropriate. This change is also shown as 'Change GF11/S225.001'.
810. We also accept the submission from *Murray and Gloria Harris (S272.002)* who raised issues about traffic flows and volumes, and agree that to ensure appropriate connectivity within the wider area the structure plan should include requirements to be met to ensure an appropriate degree of internal connection and access points to Wakari Road (shown as 'Change GF11/S272.002'). We accept the submission from Neil and Linda Brown (S225.001) in relation to loss of amenity value. We note that the NDMA assessment rules in the 2GP require consideration of appropriate amenity planting (Rule 12.X.2.5.b), and Policy 12.2.X.4 requires adequate areas of amenity planting to be provided. We do not consider that any further amendments are necessary.
811. We note Mr Morrissey's recommendation that the structure plan should also provide for provision of a 5,000m² recreation area, based on the advice he received from DCC Parks and Recreation. We have decided not to implement this as a structure plan rule. The need for a reserve was not indicated at the time the section 32 report was prepared and the Change notified, and we do not consider there is scope to require one now through the current process. To do so would be contrary to natural justice as affected landowners could not have reasonably known this would be a requirement that would be imposed via the Variation 2 process. We consider the new development mapped area requirements in the Plan (Rule 15.11.5.Y) appropriately requires consideration of the need for recreation spaces and public amenities at the time of subdivision. We also recommend that DCC could consider proactively negotiating with landowners ahead of the consent process to purchase a reserve area if considered necessary.
812. We accept in part the submissions which sought to remove the new development mapped area and instead apply a structure plan mapped area to the site. We agree with Mr Oliver and Mr Saunders that retaining the new development mapped area is important to ensure good and integrated stormwater management, as well as providing for good subdivision design. This is particularly important given the large number of landowners within the area, and the potential for piecemeal development to occur without this method being applied. However, we acknowledge Mr Oliver and Mr Saunders' evidence that 312 Wakari Road is hydrologically separated from the balance of GF11 and we therefore agree with the submitter that a separate new development mapped area is appropriate for this site. We also accept their evidence that 296 Wakari Road does not require a new development mapped area given its small size and limited development potential. As discussed above, we also consider that a structure plan should be applied to part of the site, in addition to the new development mapped areas.

813. With respect to 280 Wakari Road, we adopt the evidence of Mr Oliver and Mr Saunders that this is hydrologically connected to the upstream parts of GF11, and should therefore be part of that new development mapped area. These amendments to the new development mapped area are shown in Appendix 2 with the reference 'Change GF11/S241.002'. As a consequential change under clause 16, we have added these NDMA's to the list of NDMA's in Appendix 12C of the Plan.
814. Lastly, we note that there is a possibility that access may be necessary through GF11 into the adjacent Honeystone Street structure plan mapped area. This would only be the case if appropriate alternative access points direct to Wakari Road were unable to be secured. In order to facilitate this, if it is required, we have made appropriate provision in both the Helensburgh structure plan mapped area (for GF11) and the adjacent Honeystone Street structure plan mapped area (for GF10). Our decision on this matter with respect to the changes in the Honeystone Street structure plan mapped area is outlined in our decision on that site. We note that it would be up to the landowners and developers of the respective sites to negotiate this connection should it become necessary.
815. We consider that our amendments appropriately balance, in accordance with section 32AA of the RMA, the costs to developers (from increased structure plan controls) and to the environment (from a small increase in the area zoned) with the benefits of an improved overall development outcome.

2.3.8.4 50 – 60 Brinsdon Road (RS167)

816. This section addresses the submission covered in section 5.4.10 of the section 42A report.
817. This site is located in Halfway Bush, to the north of the Mount Grant water treatment facility. It is a 4.9ha area currently zoned Rural Residential 1 and is surrounded on all sides by Rural Residential 1 or Rural Hill Slope zoning. There are no overlays present on the site. The section 42A report identifies that the site is relatively distant from centres and does not adjoin existing residentially zoned land. The section 32 report indicates that the site was originally rejected as it has been developed as a Rural Residential area, is detached from existing residential areas and is relatively distant from services, and was considered to fail the compact form/city policies.

2.3.8.4.1 Submissions received

818. *Michael and Michelle Wallace (S274.001)* sought to rezone RS167 to General Residential 1. The submitters considered the character at this location has been influenced by the infrastructure associated with the Mount Grand Water Treatment Plant and the prevalence of housing located close to Brinsdon Road on narrow frontages. They consider these attributes give the locality a less 'rural' character than normally found in rural residential areas. They also note that the site has many positive residential attributes, including proximity to public transport, parks, amenity areas, shops and schools, and no specific natural hazards. They noted that the amenities in Brockville appear to be under-utilised and sustainability may be marginal if the number of residents within their catchment cannot expand.
819. This submission was opposed by the *ORC (FS184.72)* as rezoning would allow for high density development in a rural/semi-rural area, and the ORC wanted to understand what infrastructure planning would be needed to support this.

2.3.8.4.2 Reporting Officer's recommendation

820. In the section 42A report, Mr Morrissey considered that rezoning the site to residential has conflicts with Policy 2.6.2.1. These include that the site is disconnected from existing residentially zoned land, and so does not reflect the objective to maintain a compact and accessible city (Policy 2.6.2.1.d.xi). If servicing is required, given this disconnection, this would result in inefficient and ineffective public infrastructure (Policy 2.6.2.1.d.ix). Given the site's distance to public transport, centres, and other community facilities, Mr Morrissey considered that rezoning would also conflict with Policy 2.6.2.1.c. Finally, Mr Morrissey advised that the access road to the property is narrow and unsealed and would appear to require upgrading. He considered that, in its present condition, this issue represents a conflict with Policy 2.6.2.1.d.x.

2.3.8.4.3 Decision and reasons

821. We reject the submission of *Michael and Michelle Wallace (S274.001)* and accept the further submission from the *ORC (FS184.72)*. We accept the evidence of Mr Morrissey that rezoning the site conflicts with Policy 2.6.2.1 and that the site is unsuitable for residential rezoning.
822. We also record that we did not hear from any submitters in relation to this site and did not receive any evidence challenging Mr Morrissey's advice.

2.3.9 Kenmure

2.3.9.1 30 Mercer Street, Kenmure (RTZ1)

823. This section addresses the submissions covered in section 5.3.1 of the section 42A report.
824. This site is 9.1ha in size and located in Kaikorai Valley, close to Kaikorai Valley College. The site slopes to the west and is located approximately 1,800m from the Mornington suburban centre. It is subject to a Residential Transition Overlay Zone (RTZ), which provides for the area to be developed for residential use at General Residential 1 density once infrastructure constraints are resolved.
825. The proposal is to rezone the site to General Residential 2, rather than the General Residential 1 zoning provided for through the RTZ overlay, as this will enable a more efficient use of the land. The site has an estimated feasible capacity of 49 – 79 dwellings under General Residential 2 zoning.
826. The section 32 report states that the RTZ is in place due to a lack of capacity in the wastewater network. Removing the RTZ overlay is only possible through use of a communal wastewater detention system, to manage flows into the Kaikorai Valley wastewater network.
827. The section 42A report indicates that developing the site will present some challenges due to its slope; however, the developer is confident that at least 50 dwellings can be developed, the minimum necessary for use of a communal wastewater detention system acceptable to DCC 3 Waters.

2.3.9.1.1 Submissions received

828. *Leah McKay (S74.001)* sought to amend the change to limit the number of sections accessing Wattie Fox Lane to avoid potential congestion, and to ensure appropriate roading

infrastructure is provided (including opening another entry/exit from Kaikorai Valley Road and Wattie Fox Lane becoming Council owned).

- 829. *Bruce Hall (S40.002)* submitted to remove the change unless the site is restricted to a maximum of 40-50 sections. He also questioned the impact development would have on the wastewater system. This submission was opposed by a further submission from *Christopher Medlicott (FS257.001)*.
- 830. *Timothy Yang (S49.001)* submitted to remove the change unless another access is provided into Wattie Fox Lane, and Wattie Fox Lane is vested in Council.
- 831. *Nicole Perry-Ellison (S140.001)* submitted to remove the change due to concerns around traffic congestion and the single road in and out of RTZ1. This submission was opposed by a further submission from *Christopher Medlicott (FS257.002)*.

2.3.9.1.2 Submitters' response to the section 42A report

- 832. At the hearing, *Mr Medlicott* spoke and outlined an updated proposal which now includes a second entrance onto Kaikorai Valley Road. He stated he has a verbal agreement to purchase the land in question if this second access point is required. He also noted future connection opportunities to Mornington Road. He acknowledged that the house at 127 Barr Street would need to be removed to provide sufficient access width, and commented this was within his control as he owned the property. He is supportive of the requirement for a communal wastewater system. He also noted he was not convinced a roundabout on Kaikorai Valley Road is necessary for this development (discussed further below). *Mr Medlicott* provided a tabled statement showing concept plans for the development, including the secondary access onto Kaikorai Valley Road.

2.3.9.1.3 Transport

- 833. The section 42A report highlighted previous comments from DCC Transport that access could be problematic for the site as it is steep, two access points are required, and upgrades to Wattie Fox Lane are likely to be required. The report also noted that there are plans to upgrade Kaikorai Valley Road at the intersection with Barr Street. These include the potential construction of a roundabout, a central median strip along Kaikorai Valley Road, and works at the Kenmure Road / Barr Street intersection. The funding and timing of the roundabout, however, was not confirmed.
- 834. Mr Watson of DCC Transport provided comments in the section 42A report. He noted that the proximity of Wattie Fox Lane to the Kenmure Road / Barr Street intersection is potentially problematic, and an Integrated Transport Assessment would be required. He considered that unless a roundabout at Kaikorai Valley Road / Barr Street is installed, the development would exacerbate existing issues at this intersection.
- 835. In his response to the additional information provided at the hearing from *Mr Medlicott*, in particular the second entrance onto Kaikorai Valley Road, Mr Watson subsequently advised that the zoning of the site was not, on balance, contingent on the provision of the roundabout. In the circumstances he considered that zoning of the site could be supported, and that any necessary transport infrastructure upgrades could be addressed as part of an Integrated Transport Assessment at the subdivision stage.

2.3.9.1.4 3 waters

836. *Bruce Hall (S40.002)* in his submission questioned the impact development would have on the wastewater system, even considering that communal wastewater detention is required.
837. In the section 42A report, Mr Morrissey outlined that a communal wastewater detention system holds wastewater generated by the site until such time as there is capacity in the downstream network to receive the additional flows. He considered that the communal wastewater system would act to appropriately mitigate wastewater constraints for the site.

2.3.9.1.5 Reporting Officer's recommendation

838. Mr Morrissey's recommendation was to rezone the site to General Residential 2. He acknowledged that significant roading upgrades and improvements would be necessary, and considered it important that the developer is fully aware of these. In his view, the site is suitable for medium density housing in accordance with Policy 2.6.2.3. He did, however, recommend that a structure plan is applied to the site to require provision of a secondary access point, as this is considered by DCC Transport to be a key requirement.

2.3.9.1.6 Decision and reasons

839. Having heard all of the evidence, we reject the submissions that opposed the notified rezoning RTZ1 to General Residential 2 or requested limits on development. We also note that we received no evidence from the submitters in opposition who also did not attend the hearing to counter any of the expert evidence provided by Council officers and by Mr Medlicott.
840. We accept in part the submission from Ms McKay in relation to ensuring there is appropriate roading infrastructure for the number of sites being developed. The additional information presented by Mr Medlicott at the hearing was helpful and demonstrated how the development could work. We agree with Mr Watson that a secondary access point is critical, and we therefore have applied a structure plan performance standard that requires this. We also agree with his evidence that an Integrated Transport Assessment (ITA) is required at the time of subdivision, and have required this in the structure plan rules. We consider that our amendments appropriately balance the costs to developers with the benefits of an improved overall development outcome, in accordance with section 32AA of the RMA. These changes are shown in Appendix 1 with the reference 'Change RTZ1/S74.001'.
841. We acknowledge that the issue of a roundabout on Kaikorai Valley Road, while not an impediment to rezoning, is not fully resolved and ongoing discussions will be required regarding the timing and funding of this. However, based on the evidence of Mr Watson, we consider that rezoning is not contingent on this.
842. We do not consider it necessary to limit the number of sites provided for, on the basis of the concept plan provided by Mr Medlicott and the expert evidence that the rezoning to this density can be supported from a transport perspective.
843. We are satisfied that wastewater can be appropriately managed via the proposed detention system, meaning the rezoning is appropriate despite the constraints in the wastewater network.
844. As a consequential change under clause 16, we have added this site to the list of NDMA's in Appendix 12C of the Plan.

2.3.9.2 13 Wattie Fox Lane, Kenmure (RTZ3)

845. This section addresses the submissions covered in section 5.3.3 of the section 42A report.
846. RTZ3 applies to 13 Wattie Fox Lane. Variation 2 proposes to rezone parts of this site from Rural Hill Slopes Zone to General Residential 1 Zone, noting that the operative zoning is General Residential 1 in part (700m²) and Rural in part (2,350m²), subject to a Residential Transition Overlay Zone (RTZ). The RTZ provides for the area to be developed for residential use at a General Residential 1 density once infrastructure constraints are resolved. There is one existing dwelling on the operative General Residential 1 zoned part of the site.

2.3.9.2.1 Submissions received

847. *Bruce Hall (S40.001)* opposed the notified rezoning unless written approval from DCC 3 Waters is received that future development is able to connect to the Council wastewater system. If connection is not possible, he considers that the zoning would increase the financial burden (through an increase in land value and therefore rates) without the ability to subdivide. He also considered a 750-800m² minimum site size more appropriate than the GR1 minimum site size (400m²) due to the site's topography.
848. *Nicole Perry-Ellison (S140.002)* opposed the notified rezoning due to concerns around traffic congestion and the single road in and out of RTZ1.

2.3.9.2.2 Reporting Officer's recommendation

849. In the section 42A report, Mr Morrissey recommended maintaining the notified zoning. He said that although infrastructure constraints in the catchment are not yet resolved, the site is small and the proposed rezoning of adjacent RTZ1 (30 Mercer Street) would leave the rural portion of 13 Wattie Fox Lane as a small rural-zoned 'island'. The site has an approximate feasible capacity of 3 dwellings at General Residential 1 density.
850. DCC 3 Waters had advised the site would be able to connect to the DCC foul sewer network. On that basis Mr Morrissey considered General Residential 1 density is appropriate to ensure efficient use of the land, but also noting the topography may reduce the number of dwellings that are ultimately constructed.
851. In response to the transportation concerns raised by *Ms Perry-Ellison*, he referred to his discussion in relation to RTZ1 (see section 2.3.9.1 above). This concluded that transport matters could be managed.

2.3.9.2.3 Decision and reasons

852. We accept the evidence before us that the land can appropriately be rezoned as notified. Accordingly, we reject the submissions seeking the notified rezoning be removed.
853. In response to the submission from *Bruce Hall (S40.001)* the evidence from DCC 3 Waters is that the site would be able to connect to the DCC foul sewer network.
854. With respect to the submission from *Nicole Perry-Ellison (S140.002)*, we consider that the transportation issues can be appropriately addressed, as outlined in our discussion under site RTZ1. We note that the second entrance required into the area may help address her concerns.

855. Consequently, we retain the notified GR1 zoning for RTZ3.

2.3.10 Mosgiel

2.3.10.1 201, 207 & 211 Gladstone Road South, East Taieri (GF02) and 195 and 197 Gladstone Road South (GF02a)

856. This section addresses the submissions covered in section 5.2.4 of the section 42A report.

857. Variation 2 proposed to rezone GF02 from Rural Taieri Plain zone to General Residential 1 zone. GF02 is a 3ha block of farmland located on the western edge of East Taieri.

858. In the section 42A report, Mr Morrissey noted that GF02 scored well across a number of criteria, in particular it is a flat, sunny site, and it would provide for development of a reasonable number (approximately 36 – 42) of dwellings at General Residential 1 density. He considered that the less favourable factors were that the site is relatively distant from Mosgiel and public transportation (2km away). In addition, there are potentially significant effects on the wider transport network through cumulative development in Mosgiel which may require intersection upgrades.

859. Two submitters (*Sonia & Karl Thom, Peter and Jillian Hogan*) requested that adjoining sites 195 and 197 Gladstone Road South be rezoned from Large Lot Residential 1 to General Residential 1. These properties were identified as GF02a in the section 42A report and we consider them below along with GF02. GF02a is 0.696ha in area, and Mr Morrissey advised that it could support around 12 dwellings. These submissions were opposed by further submissions from *Sheree Clark, James Paulin, Scott and Bronwen Reid, and Otago Regional Council*.

2.3.10.1.1 Other submissions received

860. *Broomfield Trust (S118.001)* supported GF02 as it related to 207 Gladstone Road South, provided that the rules allow for sites of varying sizes. Reasons given in support were that the property is in close proximity to East Taieri and Mosgiel.

861. *Ed Stewardson (S223.002)* supported GF02 and noted that rezoning would help alleviate Dunedin's housing shortage, it meets the criteria specified in the 2GP, and provides for flexibility of development in an area where there is high demand.

862. Several submitters supported GF02 (*Sonia & Karl Thom, Yolanda van Heezik, Invermark Investments Ltd, Jane McLeod, Peter and Jillian Hogan*) but sought various amendments.

863. Other submitters opposed GF02 (*Murray Inglis, June Ross, Glen Munn, Rodney & Rani Wray, Alex King*) with others requesting amendments should the rezoning proceed (*Ed Stewardson, Darrin and Sheree Healy, Peter and Jillian Hogan, Otago Regional Council*).

864. Two submitters (*Invermark Investments Limited, Ed Stewardson*) sought that the proposed new development mapped area included in the notified change should be replaced with structure plan provisions.

865. Issues of concern raised in further submissions, including by ORC, included:

- loss of rural aspect and amenity;

- loss of trees, native birdlife, and wildlife;
- traffic implications;
- inadequate stormwater and wastewater infrastructure in the area; and
- flooding hazard.

866. Two submitters spoke at the hearing. Mr Robert Reid (on behalf of *Broomfield Trust*) was supportive of the rezoning proposal and commented that the area is suitable for residential development. Ms Emma Peters, on behalf of *Ed Stewardson*, also spoke at the hearing and commented that the land has limited rural productivity, roading connections to adjoining areas would be considered during subdivision, and that the key concerns outlined by submitters could be addressed at the time of subdivision. Ms Peters noted that the submitter is now supportive of retaining the new development mapped overlay as notified.

867. No submitters appeared, and no evidence was called by submitters, in relation to GF02a.

2.3.10.1.2 *Landscape, green space and rural amenity*

868. Mr Morrissey noted that the three GF02 sites are located adjacent to existing Large Lot and General Residential 1 development in East Taieri. The section 32 assessment found that rural amenity and character values were low, consisting of grazed paddocks and adjoining residential development. The assessment concluded that rezoning would result in a loss of rural outlook for neighbouring properties but would have minimal effects at a broader scale.

869. Mr McKinlay, DCC's Landscape Architect, reviewed the original assessment and relevant submissions and commented that General Residential 1 development could integrate relatively well at this location without notable adverse effects on existing rural character values. He acknowledged that rezoning would result in the loss of rural outlook for immediately adjoining residents and suggested limiting dwellings to single storey may help address the concerns of submitters in relation to loss of views.

870. Mr Morrissey, however, considered that the existing 2GP performance standards would act to appropriately manage impacts to existing properties and no further restrictions were necessary.

2.3.10.1.3 *Biodiversity*

871. Mr Morrissey stated that the site had been assessed for indigenous biodiversity values, and none had been identified.

2.3.10.1.4 *Transportation*

872. Several submitters raised issues relating to traffic impacts, including the need to upgrade Gladstone Road South, potential safety issues with access to the site, the speed limit on Gladstone Road, the need for footpaths, and lack of public transport.

873. The section 32 report had noted that an additional footpath connection would be required on Riccarton Road East along with the southern side of Gladstone Road South, and a Level Crossing Safety Impact Assessment may be required.

874. More detailed comments were sought from Mr Watson of DCC Transport. He noted that, if rezoning were to proceed, urbanised transportation infrastructure (including replacement

of existing swale drainage with footpath, kerb and channel on the southern side of the road, widening and sealing of the existing unsealed footpath, and a review of street lighting) would be expected on Gladstone Road South and would need to be provided by the developer. Additionally, an Integrated Transport Assessment would need to be undertaken at the time of subdivision and would need to assess the Riccarton Road East / Gladstone Road South intersection, the impacts of additional traffic, and a review of existing speed limits. He recommended consideration be given in the internal road layout to connection points to potential future residential areas.

875. Overall, subject to those various recommendations, Mr Watson considered that the rezoning could be supported from a traffic and transportation perspective.

2.3.10.1.5 3 waters

876. Concerns were raised in submissions opposed to the notified rezoning relating to inadequate stormwater and wastewater infrastructure in the area. DCC 3 Waters in the section 42a report noted that constraints in the potable water and wastewater network had been identified, and there is funding for these upgrades in the 10 year plan. We were advised that rezoning was not opposed by DCC 3 Waters.

2.3.10.1.6 Hazards

877. Several submitters said that part of the area is subject to flooding. The *ORC* submission noted that there is an alluvial fan hazard mapped area over much of the area.
878. Stantec assessed the site for DCC and reported it has low level natural hazards associated with seismic activity and flood risk. Stantec advised that flood hazard can be typically mitigated as part of the subdivision design.
879. Mr Morrissey concluded that, based on the evidence from both DCC 3 Waters and Stantec, concerns regarding flooding can be appropriately mitigated through the new development mapped area provisions and also through specific design at the time of subdivision.

2.3.10.1.7 Other issues

880. A number of other issues were raised by the submitters, including concerns about the appropriate density of development, loss of productive soils, no school capacity nearby, and lack of nearby amenities/facilities.
881. Mr Morrissey responded by saying he considered General Residential 1 zoning is an appropriate density, and that the other issues raised are not significant enough to prevent rezoning.
882. We note that part way through our deliberations the National Policy Statement for Highly Productive Land (NPS-HPL) was released and came into effect. Neither GF02 nor its requested extension GF02a, while both completely covered in LUC-3 soils, meet the interim criteria of highly productive land outlined in clause 3.5(7) of the NPS-HPL, as GF02 is subject to a Council initiated notified plan change seeking to rezone it (clause 3.5(7)(b)(ii)), and GF02a is currently zoned residential rather than rural (clause 3.5(7)(a)(i)) and neither are therefore subject to the NPS-HPL. None-the-less, we discuss the loss of productive land, which was a broad issue raised by Mr Miller, in section 2.2.6 and we acknowledge it as a factor for consideration for rezoning GF02.

2.3.10.1.8 Reporting Officer's recommendation

883. Mr Morrissey considered that, on balance, rezoning GF02 would generally be consistent with the criteria specified in Policy 2.6.2.1. While he acknowledged that a number of infrastructure upgrades were required for rezoning at Mosgiel, funding had been identified for these and provision of a limited amount of additional capacity in sites that meet Policy 2.6.2.1 well had been assessed as acceptable.
884. With regard to the requested extension GF02a, Mr Morrissey advised that these neighbouring pieces of land essentially share the same characteristics as the main GF02 land and there are no issues relating to GF02a that differ from those identified for GF02. He recommended that rezoning GF02a would be consistent with Policy 2.6.2.1, and advised that this would enable a more efficient use of the land than the current Large Lot Residential 1 zoning. He recommended if these areas are included that the new development mapped area that is applied to GF02 be extended over GF02a.

2.3.10.1.9 Decision and reasons

885. Overall we are satisfied, on the expert evidence we received, that GF02 and GF02a are appropriate for rezoning to residential as requested.
886. Accordingly, we accept the submission supporting the notified zoning of GF02 and extension of zoning onto GF02a, and reject those submissions in opposition. We also reject submissions that requested amendments to the notified zoning as we consider that effects are able to be managed via the existing 2GP performance standards, and no submitters provided evidence to convince us the amendments would be necessary. We have discussed the issue of additional design controls in section 2.1.6, and our decision here is consistent with the view we outline there that these are not efficient or appropriate to implement.
887. Having considered the costs and benefits of zoning in accordance with section 32AA of the RMA, we agree with the Reporting Officer that rezoning both sites is broadly consistent with the criteria outlined in Policy 2.6.2.1. The change reference for rezoning GF02a is 'Change GF02/30.001'.
888. We note that these sites have some of the same issues as some of the rejected sites that we have not accepted for rezoning. However, there was no expert evidence presented by submitters in opposition to persuade us not to accept the reporting officer's recommendation, supported also by Ms Peters in planning evidence, that the sites are indeed appropriate for rezoning. We acknowledge that the sites are some distance away from public transport, but they are well located for East Taieri School and are within cycling distance of Mosgiel's amenities. As outlined above, we acknowledge there will be some loss of high class soils, but note that these sites are not subject to the NPS-HPL, and overall do not consider this a sufficient reason to reject rezoning.
889. With respect to the new development mapped area, we note that Ms Peters, on behalf of Mr Stewardson, now supports this. We agree with the Reporting Officer that retaining the new development mapped area is important to ensure appropriate stormwater management is undertaken, and that this is a consistent approach with other larger greenfield rezoning sites.
890. As a consequential change under clause 16, we have added this site to the list of NDMA's in Appendix 12C of the Plan.

2.3.10.2 119 Riccarton Road West (RS109)

- 891. This section addresses the submissions covered in section 5.4.3 of the section 42A report.
- 892. The site RS109 is located to the west of Mosgiel on the Taieri Plain. It is subject to a number of overlays on the planning map including a high class soils mapped area, Hazard 3 (flood) Overlay Zone and the Dunedin Airport Flight Fan. The site is largely covered by a wāhi tūpuna mapped area (A4.56 Kokika o Te Matamata). It is located just over 600m from the closest residential zoning. The section 42A report noted that the site was originally rejected in the section 32 report as there are more appropriate areas closer to Mosgiel centre and the site is disconnected from existing or potential new residential land.

2.3.10.2.1 Submissions received

- 893. *Mark and Jacqui Taylor (S273.002)* sought to rezone the site to General Residential 1, as they considered that the predominant land-use in the area is residential/lifestyle and there is currently minimal use for primary production. In addition, they considered that natural hazards (flooding) could be relatively easily managed in this location.
- 894. At the hearing Mr Bowen, in evidence for the submitter, indicated that in response to matters raised in the section 42A report the submitters now considered zoning to Large Lot Residential 2 to be more appropriate. He provided a development plan showing potential for an additional three sites under that zoning.
- 895. Further submissions in opposition were received from *Allen Blackie (FS11.1)*, *Jakob and Kylie Thomas (FS113.1)*, *Mervyn (Stuart) Aitken and Kaye Sangster (FS172.1)* and the *ORC (FS184.524)*. These variously raised concerns in relation to loss of rural zoned land, reverse sensitivity issues from adjoining farmland, the distance from existing and/or potential residential land and services, increased traffic, loss of rural outlook and existing character, flooding, lack of 3 Waters infrastructure and stormwater management. None of the further submitters provided evidence at the hearing.

2.3.10.2.2 Landscape

- 896. Loss of rural outlook and lifestyle character was raised by a number of further submitters. This matter was not specifically addressed in the section 42A report.
- 897. In his evidence, Mr Bowen considered developing the site at Large Lot Residential 2 density would not create adverse effects on landscape that were more than minor.

2.3.10.2.3 Transport

- 898. Concerns about additional traffic, including high speed vehicles, were raised by further submitters.
- 899. Mr Bowen assessed the impact based on the proposed three additional dwellings, and considered that any adverse effects would have no more than minor effects on the transport network. He considered that there were excellent sight lines to access the site and that the site is within walking distance to a bus stop.
- 900. These views were corroborated by Mr Trevor Watson, DCC Transport, who agreed that three additional dwellings would not have a noticeable impact on Riccarton Road or the surrounding transportation network.

2.3.10.2.4 3 waters

901. The section 42A report noted that the site is disconnected from existing serviced areas and that if serviced, rezoning would result in inefficient and ineffective public infrastructure through the need to extend servicing to reach the site.
902. However, Mr Bowen noted that, with Large Lot Residential 2 zoning, on-site 3 waters servicing is an expected outcome and is proposed. The proposed sites are large enough to accommodate this, and there is no intention of seeking that the site be serviced. In addition, he considered that if stormwater management was required to control flows that pass across the site boundaries, this could easily be achieved through the installation of on-site detention tanks.
903. In his response, Mr Oliver (DCC 3 Waters) noted that while DCC would not service this site for 3 waters, a high-level assessment indicated that there were no significant issues for self-servicing of water supply, wastewater or stormwater.
904. We note that, with respect to this site and others in Mosgiel, Mr Oliver and Mr Saunders also provided a high-level overview of 3 Water constraints in Mosgiel, and did not support rezoning where servicing would be expected due to constraints in the water supply and wastewater networks providing an impediment to servicing more growth in Mosgiel.

2.3.10.2.5 Hazards

905. The *ORC (FS184.524)* raised concerns relating to natural hazards and other further submitters noted that the site is located in a flood zone. We understand that the Hazard 3 Overlay Zone will be relevant when earthworks consent might be required (permitted earthworks are smaller in scale than outside Hazard Overlay Zones). Minimum floor levels may also apply under the Building Act.
906. Mr Bowen acknowledged the Hazard 3 (flood) overlay but noted that there are already a number of houses in the area and reasonably straight-forward and economically viable engineering solutions are available to mitigate this hazard, such as minimum floor levels. In addition, he noted that the property is reasonably flat and there are no significant geotechnical hazards present beyond the potential for alluvial materials which could be resolved with appropriate foundation design. Mr Taylor, the site owner, also noted at the hearing that the site had not flooded in the time he had owned it.

2.3.10.2.6 Rural productivity

907. *Allen Blackie (FS11.1)* and others raised concerns regarding loss of rural zoned land and high quality soils and the potential for reverse sensitivity from adjoining farmland.
908. In his evidence, Mr Bowen noted that the surrounding land-use appeared to be a mix of industrial, residential and farming. In his view, the sites in the immediate proximity are undersized rural sections with limited primary production.
909. Mr Morrissey noted that the site is fully covered by high class soils. In this regard, he noted that while the site is small and, by itself, is unlikely to have a significant impact on rural productivity, rezoning to residential would still result in an overall loss to potential rural productivity and this represents a potential conflict with Policy 2.6.2.1.d.ii.

910. We note that part way through out deliberations the National Policy Statement for Highly Productive Land (NPS-HPL) was released and came into effect. Mr Morrissey, in his response to Minute 15, 16, 17 from the Panel dated 6 October 2022, advised that 100% of this site meets the interim criteria for Highly Productive Land.
911. Due to the timing of the NPS-HPL, and for the sake of clarity, we have chosen to undertake an analysis of the NPS as a separate part of our decision and to focus on whether the consideration of it changes any of our conclusions and decisions. This analysis is given in section 3 of this decision. We note that the analysis in that section has not materially changed our overall decision on the rezoning of this site.

2.3.10.2.7 Recommendation to rezone

912. The section 42A report concludes that that rezoning this site has several critical conflicts with Policy 2.6.2.1. In particular, Mr Morrissey considered that rezoning isolated and disconnected pockets of land conflicts with Policy 2.6.2.1d.xi and 2.6.2.1.c, and that should additional 3 waters servicing be required, this would conflict with Policy 2.6.2.1.d.ix.

2.3.10.2.8 Reporting Officer's recommendation

913. In his Reply Report, Mr Morrissey maintained his recommendation to not rezone the site. While he noted that the submitters now sought lower density zoning, he considered that any form of residential rezoning remains inconsistent with Policy 2.6.2.1. There was primarily due to the site's disconnection from existing residentially zoned land, and its distance to centres and other community facilities. He did not consider rezoning these small, isolated and disconnected sites to Large Lot Residential zoning to be an efficient use of the land.

2.3.10.2.9 Decision and reasons

914. Having considered the evidence presented, we reject *Mark and Jacqui Taylor's (S273.002)* submission to rezone RS109 to General Residential 1 and their subsequent proposal to rezone the site Large Lot Residential 2. We agree with Mr Morrissey's evidence that rezoning this site is inconsistent with Policy 2.6.2.1, as it does not meet the compact city objectives of the 2GP due to its distance from to public transport, centres and other community facilities and its disconnection from Mosgiel. We were also concerned about the cumulative loss of productive rural land, particularly on the Taieri, which was a broad issue raised by Mr Miller and discussed in section 2.2.6. We note the new policy direction in the NPS-HPL requires much greater attention to that issue as discussed in section 3.
915. We acknowledge that Large Lot Residential zoning had been proposed in order to address issues raised in the section 42A report; however, we agree with Mr Morrissey that the proposal remains inconsistent with Policy 2.6.2.1. As amended, it is also not consistent with Policy 2.2.4.1, which requires that land is to be used efficiently unless site-specific constraints make this inappropriate. We also refer to our discussion on Large Lot zoning in section 2.1.4 above, and also our discussion on whether there is an expectation that rural-zoned land should be productive in section 2.1.5 above.
916. We accept the further submissions from *Allen Blackie (FS11.1)* and others that opposed rezoning RS109.

2.3.10.3 Chain Hills Area, Mosgiel (RS153 and RS204)

- 917. This section addresses the submissions covered in section 5.4.6 of the section 42A report.
- 918. RS153 and RS204 are located on the slopes of Chain Hills, adjacent to Mosgiel. RS153 has a total area of 51.2ha and is presently zoned a mixture of Rural Hill Slopes, Rural Residential 1 and Low Density Residential. RS204 has a total area of 14.1ha and is currently zoned Rural Residential 1. There is a Hazard 3 (alluvial fan) overlay zone covering a small part of RS153, adjacent to the existing residential zone at Irwin Logan Drive.
- 919. The section 32 report indicates that RS153 was rejected from notification within Variation 2 as the site has features (a central gully, areas of south facing slopes, and steep in parts) making development more complex and less efficient. RS204 was rejected as the site is fairly isolated and fails to support the compact form/city policies.

2.3.10.3.1 Submissions received

- 920. *Gladstone Family Trust (S219.003, S219.004, S219.005, S219.008)* submitted to rezone RS153 and RS204 to a mixture of residential zoning in accordance with a proposed structure plan provided by the submitter. The submission also sought that a structure plan mapped area is applied to the site rather than a new development mapped area. The submitter's structure plan proposes rezoning the upper slopes of Chain Hills adjacent to Chain Hills Road to General Residential 1. Further downslope, a large area of Large Lot Residential 1 zoning along with some Rural Residential 1 zoning was proposed. The lower slopes, adjoining existing residential areas, were proposed to be Low Density Residential, along with some General Residential 1. The proposed structure plan also included areas of native bush regeneration and an area zoned Recreation. In total, the proposed structure plan provides for 136 additional dwellings. It also shows a link road, connecting Irwin Logan Drive with Chain Hills Road.
- 921. Three further submitters supported, or supported in part, the Gladstone Family Trust submission. These were Nikita and Mathew Woodhead (FS183.1, FS183.2, FS183.3, FS183.4), Karen Wispinski (FS128.1, FS128.2, FS128.3, FS128.4), and Rennie Logan (Logan Projects Ltd) (FS202.1, FS202.2).
- 922. A large number of further submissions were received in opposition to the *Gladstone Family Trust* submission points. Concerns raised were varied, but included transportation (most notably the proposed link road between Chain Hills Road and Irwin Logan Drive), visual impacts, landscape effects, loss of rural character, 3 waters concerns, hazard and geotechnical concerns, impacts on biodiversity, concerns around proposed lot sizes, compact city concerns, lack of affordability, loss of productive land, impacts to existing residents, and inconsistency with the Resource Management Act and Te Tiriti o Waitangi.
- 923. At the hearing, further submitters *Mr Gordon Hunt, Ms Bronwyn Hughes, Mr John Franklin, Ms Holly Shanks, Pam and Neville Jemmett, Mr Jim Cotter, and Ms Debra Gale* all spoke and outlined their opposition to rezoning, citing a range of concerns. Their evidence is discussed in relation to the topics below.

2.3.10.3.2 Submitters' response to the section 42A report recommendations

- 924. In her planning evidence on behalf of the *Gladstone Family Trust*, Ms Peters advised that the structure plan for the site had been further developed since the submission was originally

lodged, in response to further submissions and the section 42A report. The updated structure plan provides for 138 dwellings at a range of residential densities across the site, and retains the area to be rezoned recreation, the walking tracks, link road, area of ecological enhancement, protection and supplementation of existing stands of indigenous vegetation, as well as new indigenous plantings.

925. Ms Peters noted that the submitter is now seeking immediate rezoning of the lower slope areas only. In recognition of the landscape issues and issues raised in further submissions, the submitter now seeks application of a Residential Transition Overlay Zone (RTZ) to the balance of the land. This would allow release for residential development with a site-specific rule relating to (a) areas of ecological enhancement being planted and managed in accordance with an approved environment management plan reaching a specified level of maturity; and (b) funding of the link road agreed with DCC.
926. Mr Rennie Logan, representing the *Gladstone Family Trust*, spoke at the hearing and provided a brief history, and his vision for the land.

2.3.10.3.3 *Landscape and green space*

927. At the hearing, Mr Gordon Hunt, Mr John Franklin, Pam and Neville Jemmett, and Ms Debra Gale all spoke and raised concerns relating to the visual effects of the development (particularly on the upper slopes), loss of green space, loss of rural character and environment, impacts to views, and general loss of amenity.
928. The original submission from the *Gladstone Family Trust* seeking rezoning was accompanied by a landscape and visual effects assessment by Mr Mike Moore, consulting Landscape Architect. Mr Moore's overall assessment was that extending development up the lower slope areas of Chain Hills will integrate well with landscape character and quality, and that adverse effects will be low. He said that residential zoning in the mid-slope spur areas would be a significant departure for the Chain Hills landscape, and the landscape and visual effects would be adverse / high in the short term reducing to adverse / moderate as plantings soften built impact and enhance the character of the gullies. His assessment was that residential zoning at the summit is considered to have moderate – high adverse landscape and visual effects.
929. Mr Moore attended the hearing and spoke to his evidence. He considered the effects on landscape values acceptable up to the 125m contour and recommended a number of mitigation measures to reduce the adverse landscape and visual effects. Ms Peters also discussed how landscape concerns should be assessed as part of Policy 2.6.2.1. Ms Peters noted the updated proposal, which includes an RTZ over the upper slopes, provides more time for the ecological restoration project to be completed before development occurs, and this would mitigate adverse visual effects from development.
930. Mr McKinlay, DCC Landscape Architect, provided an assessment of the proposed rezoning in the section 42A report and in a reply report, and generally agreed with Mr Moore's assessment. Mr McKinlay considered that limiting rezoning to the lower slopes within the northern part of the site (to approximately the 90m contour) would help mitigate some of the more significant landscape effects. This is to preserve a more distinct green break above existing and proposed residential development near the north-western side of the site.
931. In his legal submission on behalf of *Gladstone Family Trust*, Mr Phil Page acknowledged the shared concerns of the landscape architects in relation to landscape effects on the upper

slopes but submitted that these concerns ought not to outweigh the benefits of rezoning the balance of the land to residential. Mr Page submitted that Policy 6(b) of the NPS-UD means that landscape amenity effects on neighbours should not be considered an adverse effect.

932. Mr Michael Garbett, Legal Counsel for DCC, provided a legal submission in response. Mr Garbett disagreed with Mr Page's submission and considered that the effects on the environment are perfectly appropriate to assess when deciding whether a greenfield site should be rezoned as part of an urban environment. Mr Garbett submitted that adverse effects on rural character and amenity are squarely an issue that we should take into account and we should consider the evidence on that issue.

2.3.10.3.4 Biodiversity

933. Mr John Franklin and Mr Jim Cotter both attended the hearing and raised concerns about loss of biodiversity.
934. The section 42A report notes that the site was assessed for indigenous biodiversity values by Wildlands Consultants. Mr Kelvin Lloyd of Wildlands Consultants recommended that the sites for residential development could be rezoned as proposed, however, several areas should be protected should rezoning proceed.
935. Mr Morrissey commented that the areas identified by Mr Lloyd for protection closely lined up with the areas marked for native bush regeneration in the submitter's proposed structure plan and the submitter's proposed structure plan would be able to adequately protect the areas of indigenous biodiversity value.

2.3.10.3.5 Transportation

936. At the hearing, Mr Gordon Hunt, Ms Bronwyn Hughes, Mr John Franklin, Ms Holly Shanks, Pam and Neville Jemmett, and Ms Debra Gale all spoke and outlined various transportation-related concerns including issues around access, increases in traffic, issues with traffic safety, lack of street lighting on Chain Hills Road, lack of public transport, the suitability of Irwin Logan Drive, provision for alternative transport options (e.g. cycling), and the proposed link road. Safety concerns for the nearby Morris Road were also outlined.
937. Mr Jim Cotter also spoke at the hearing and was specifically concerned about development contributing to increased private car use, and the implications of this for climate change and human health.
938. Mr Trevor Watson, of DCC Transport, provided an assessment of the proposed rezoning in the section 42A report. He noted that the proposed roading link between Chain Hills Road and Gladstone Road North would occur via an extension of Irwin Logan Drive, but there had been no assessment provided of the proposed roading connection on the wider transport network and the implications of this. He noted that both Chain Hills Road and Morris Road are rural roads with an 80kph speed limit, a tortuous alignment, and lack of facilities for non-motorised road users. Significant upgrades would be required to both these roads. Mr Watson considered that an Integrated Transport Assessment (ITA) is required which would allow DCC to better understand the scale of the potential effects of the proposal on the wider transport network.
939. Mr Grant Fisher, consulting Transport Engineer for the *Gladstone Family Trust*, presented an Integrated Transport Assessment for the proposed rezoning and development. He concluded that the proposal would not cause the function, safety, or capacity of the

surrounding road network to be compromised, and that an acceptable transportation outcome for all modes and users could be delivered at this location. In response to the issue of “rat running” raised by a number of submitters, Mr Fisher commented that roading infrastructure can be used to control this issue, if assessed as necessary, at the time of subdivision.

940. In his response to the evidence from Mr Fisher, Mr Watson noted that while a full ITA would be required at the time of subdivision, subject to the required upgrades being able to be delivered, he did not have any overriding transport objections to this proposal. Mr Watson also commented that it appears likely the additional traffic generated is unlikely to result in a “step change” increase compared with the existing relatively high flows on the surrounding roads. With respect to the potential for “rat running”, Mr Watson noted this view was predicated on the majority of traffic travelling to Dunedin which may not in fact be the case.

2.3.10.3.6 3 waters

941. At the hearing, *Mr Gordon Hunt, Mr John Franklin, Ms Holly Shanks, and Pam and Neville Jemmett* outlined various concerns relating to all 3 waters, including issues around stormwater run-off, potential for increased septic tank use, and the costs of providing 3 waters servicing.
942. Mr Oliver and Mr Saunders provided a high-level overview of 3 water constraints in Mosgiel and did not support rezoning of this land due to constraints in the water supply and wastewater networks providing an impediment to servicing more growth in Mosgiel. Their concerns are further explained below.

Potable water supply

943. Regarding potable water supply, Mr Jared Oliver and Mr Bruce Saunders stated that there are current supply constraints to Mosgiel in peak summer months, and low pressures for the higher elevation areas would require booster pumps. There are also significant upstream network upgrades required, with a medium term timeframe to resolve.
944. Ms Melanie Stevenson, consultant Environmental Engineer for the *Gladstone Family Trust*, presented evidence at the hearing. She concluded that both parts of the proposed development could be serviced for potable water via an extension of the Gladstone Heights reticulation. The southern part of the site (Chain Hills Park) would also require some additional storage, a set of booster and inline fire pumps, and a backup generator.
945. In response Mr Oliver and Mr Saunders emphasised that there are significant upgrades required to the existing water network, with a medium term timeframe to resolve meaning there was no capacity to service this area until those upgrades were completed. With respect to the proposal from the submitters, they noted that, based on the evidence provided, there does not appear to be a holistic approach for water supply for the entire site. They noted booster pumping would be required in some areas, and this is generally not supported as “good quality” infrastructure. DCC 3 Waters prefers gravity pumping where possible due to lower operating and maintenance costs, and supporting the DCC’s Zero Carbon policy.

Wastewater

946. DCC 3 Waters advised that significant downstream network upgrades are required, as both the network and treatment plants are overloaded in wet weather events. This will require a medium to long term timeframe to resolve.

947. Ms Stevenson outlined that, for wastewater, this is proposed to be drained to the catchment feeding the Wingatui No. 4 Pumpstation, however the impact of the increased wastewater flow estimates from the development had not been assessed. Wastewater detention storage could be considered to manage flows if necessary.
948. In Reply, Mr Oliver and Mr Saunders noted that some areas of the rezoning site are proposed to self-service for wastewater, but no evidence regarding flows, soil type, and topography was provided to indicate if self-servicing is feasible.

Stormwater

949. DCC 3 Waters noted that there are known capacity issues in the Owhiro Stream, which is where stormwater from the development would discharge to. Mr Oliver and Mr Saunders were concerned about both the affordability of on-site stormwater infrastructure that would be required to manage peak flows, and the risks to downstream areas if stormwater management is not appropriately implemented.
950. Ms Stevenson discussed that the preferred option for stormwater management in the northern part of the proposal (Gladstone Heights) involves four stormwater detention ponds located around the proposed development catchment. In the southern part of the proposal (Chain Hills Park), the preferred option involves various servicing options based on the lot sizes and location of the lots within the catchment.
951. In Reply, Mr Oliver and Mr Saunders noted that it is unclear if the stormwater management proposed would meet the new development mapped area rules, and it also does not address their previous concerns regarding affordability.
952. We also note that Mr Garbett, legal counsel for DCC, submitted that affordability of infrastructure is a matter that can be taken into account in making a decision on rezoning.
953. To help explain the risks associated with stormwater associated with new urban development Dr Jean-Luc Payan, Manager Natural Hazards at the Otago Regional Council, had at the hearing outlined the flood hazards affecting the broad Taieri Plain area, at the request of DCC officers. He provided information on the flood hazard mapping approach taken by the Otago Regional Council, and specifically discussed the capacity of the Owhiro Stream. This is part of the East Taieri drainage scheme and has limited capacity, particularly in high rainfall events

2.3.10.3.7 Geotechnical hazards

954. At the hearing, Ms Bronwyn Hughes, Mr John Franklin, Pam and Neville Jemmett, and Ms Debra Gale outlined concerns about the potential for land subsidence and slope instability. One further submission had noted that the land is prone to subsidence due to the waterlogged nature of the ground at this location.
955. Mr Lee Paterson, from Stantec, had completed a hazards assessment on both RS153 and RS204 for DCC. He said that RS153 was assessed as having a medium level hazard associated with slope instability, while RS204 was assessed as having low level hazards associated with slope instability on slopes less than 12 degrees, and medium level hazards associated with slope instability within gullies where slopes are greater than 15 degrees.

2.3.10.3.8 Lot sizes

956. A number of submissions raised concerns regarding the proposed lot sizes in the submitter's structure plan. Some submitters sought that the minimum lot size be limited, for example Large Lot Residential, or 1,000m², or that there should be no General Residential 1 zoning. Some submitters considered that lifestyle blocks would be more appropriate for this area.
957. In the section 42A report, Mr Morrissey commented that he considered the proposed zoning types (Low Density Residential and General Residential 1) in the lower slope areas to be appropriate. However, he did not support the proposed development density for the mid-slope and up areas, due to adverse landscape effects. Mr Morrissey also noted that consideration of rezoning any areas to Rural Residential is not within the scope of Variation 2.

2.3.10.3.9 Housing demand

958. In her evidence for the *Gladstone Family Trust*, Ms Peters noted there is a clear demand for more residential zoned capacity to be made available to the market in this area of Dunedin. She raised a number of broad issues of concern with the housing capacity assessment. We have discussed these in more detail, along with the response from Mr Nathan Stocker, DCC Research and Monitoring Team Leader, in section 2.1.1 of the decision.

2.3.10.3.10 Rural productivity

959. Mr John Franklin spoke at the hearing and raised concerns with the loss of productive land that would result if rezoning were to proceed.
960. The site is not subject to the high class soils mapped area on the 2GP maps; however, the section 42A report advised that approximately 40% of the site is Land Use Capability Class (LUC) 3. In the section 42A report, Mr Morrissey acknowledged that this would likely be lost if development occurs.
961. We note that part way through our deliberations the National Policy Statement for Highly Productive Land (NPS-HPL) was released and came into effect. Mr Morrissey, in his response to minutes 15, 16 and 17, advised that the LUC 3 land (20% of RS153) meets the NPS-HPL interim definition of highly productive land, and so that land is subject to the NPS-HPL provisions.
962. Due to the timing of the NPS-HPL, and for the sake of clarity, we have chosen to undertake an analysis of the NPS as a separate part of our decision and to focus on whether the consideration of it changes any of our conclusions and decisions. This analysis is given in section 3 of this decision. We note that the analysis in that section has not materially changed our overall decision on the rezoning of this site.

2.3.10.3.11 Reporting Officer's recommendation

963. Mr Morrissey acknowledged in his Reply that while the submitters evidence had addressed some of the concerns outlined in the section 42A report, he continued to recommend that, based to the expert evidence received, no part of either RS153 nor RS204 should be rezoned. This was in part due to the evidence from DCC 3 Waters that the area could not be serviced for potable water or wastewater until upgrades were completed that were expected in the medium term. He also concluded that effects on landscape values (if development was to occur above the 90m contour) were unacceptable. He also mentioned that issues regarding

transportation effects were still in question. He noted in his Reply that he also did not support the submitters RTZ proposal for the upper slopes, and he commented that he did not consider this an appropriate usage of the RTZ method.

964. However he recommended that, should we decide that rezoning was appropriate, that this should be limited to the lower slopes only (up until approximately the 90m contour) based on the landscape evidence. He also recommended that, should rezoning proceed, a new development mapped area be applied, along with a structure plan requiring native bush revegetation as proposed in the submission.
965. We asked Mr Morrissey, in Minute 15, in order to clarify the recommendation to report further on whether there is any part of the lower slopes that could be supported for residential development from a 3 Waters perspective. In his response, Mr Morrissey reiterated that, based on further discussion with Mr Oliver and Mr Saunders, that the 3 Waters department was unable to support any part of the site for residential rezoning due primarily to the water supply capacity constraints. We understood his evidence to be, therefore, that he could not support any of the rezoning from a planning point of view.

2.3.10.3.12 Decision and reasons

966. Having carefully considered all of the evidence and matters raised in submissions, our decision is to reject the submissions of *Gladstone Family Trust* (S219.003, S219.004, S219.005, S219.008) to rezone both RS153 and RS204. Our reasons are set out below.
967. We accept the evidence of Mr Saunders and Mr Oliver (DCC 3 Waters) that there are significant issues with all three waters in relation to this site. In particular, we highlight the issues with potable water supply including a constrained supply in summer, low pressure, booster pumping needed, and the significant upgrades required with a medium term timeframe to resolve. Wastewater upgrades also have a medium – long term timeframe for the necessary upgrades to take place. We considered that the evidence of Ms Stevenson was not persuasive as to how these issues could be resolved. In short we preferred the evidence of the witnesses from the DCC 3 Waters department based on their expertise in managing 3 waters infrastructure and their experience in the issues associated with development in this area.
968. We also gave weight to the issues identified with stormwater management, and the concerns that this could overwhelm the Owhiro Stream. This was also reinforced by the presentation from Mr Payan from the ORC which, whilst at a higher more strategic level, was nevertheless relevant when considering a rezoning request for a large area of land in this location. We further note the opposition of the ORC to this rezoning request and their tabled evidence that supported the officer's recommendation to reject the submissions seeking rezoning. We also gave weight to the evidence from DCC 3 Waters about their concern on the affordability of stormwater infrastructure, and if the stormwater management proposed would meet the new development mapped area requirements. We accept the legal submission from Mr Michael Garbett that affordability is a matter that can be taken into account in making a decision on rezoning.
969. Overall, in relation to 3 waters issues, we highlight that this is a substantial new development being proposed, and the impacts on already overloaded systems would be substantial.
970. We acknowledge the transportation evidence from Mr Fisher and the response from Mr Watson. While we note Mr Watson broadly supports the proposal, we refer to the large

number of further submitters raising concerns about the link road between Chain Hills Road and Irwin Logan Drive, and consider that the Future Development Strategy is the more appropriate process through which to review and consider fairly major changes to the transport network. As we have emphasised throughout our decision report, rezonings enabled through Variation 2 should be relatively “easy wins” if they are to meet the stated purpose of the variation

971. Turning to landscape, we note the broad agreement between Mr Moore and Mr McKinlay, with both landscape architects considering that rezoning the upper slopes will have adverse impacts. We accept the legal submission from Mr Garbett that adverse effects on rural character and amenity are issues that we should take into account and consider as part of our decision making process. We therefore agree with Mr Moore and Mr McKinlay that the rezoning of the upper slopes (i.e. any areas above 90 – 120 metres elevation) is not appropriate from a visual effects perspective.
972. With respect to the proposal to consider applying an RTZ to the upper slopes while the planting matures in this area, we agree with the Reporting Officer that this is not something that an RTZ can be used for, but given that we find the site inappropriate for rezoning for a range of other reasons, this is not a material consideration.

2.3.10.4 170 Riccarton Road West (RS212)

973. This section addresses the submissions covered in section 5.4.22 of the section 42A report.
974. 170 Riccarton Road West is located to the west of Mosgiel and is 8.3ha in area. It is subject to a number of overlays on the 2GP maps, as follows: a high class soils mapped area (the majority of the site), a groundwater protection mapped area, the Kokika o Te Matamata (area surrounding Mosgiel) wāhi tūpuna mapped area, the Hazard 3 (flood) Overlay Zone, and it is within the Dunedin Airport Flight Fan. The site is located just over 300m from the nearest residential zoning. The site was originally rejected in the section 32 report as it was considered unsuitable due to its disconnection from existing residential zoned areas.
975. Evidence from Ms Peters was that the site currently includes a hazelnut orchard.

2.3.10.4.1 Submissions received

976. *Richard Muir (S156.002)* sought to rezone the site to either Low Density Residential or, if it was desirable to retain an element of rural character as it merges with its rural surroundings, Large Lot Residential 1.
977. *Roger and Janine Southby (S191.002)* sought to rezone the site to General Residential 1 and/or Low Density Residential and/or Large Lot Residential 1, subject to a structure plan mapped area rather than a new development mapped area. The submission contained a number of concept plans showing proposed structure plan layouts for the various zonings.
978. *Clive and Linda Wallis (Daisy Link Garden Centres Ltd) (FS56.1, FS56.2)* supported both the submissions above, but noted that they wish to participate in the process to ensure development does not adversely affect the stormwater network’s ability to receive stormwater from residential development at 58 Ayr Street.
979. *Allen Blackie (FS11.2, FS11.3)* opposed rezoning due to concerns about loss of rural land, and the potential for reverse sensitivity issues from the existing surrounding farm operations.

980. The *ORC (FS184.20, FS184.29)* opposed those submissions seeking rezoning, with concerns expressed about stormwater management issues.
981. *Denise Snell (FS77.1)* opposed the submission from *Roger and Janine Southby*, and raised concerns around traffic safety, loss of rural character and lifestyle, potential loss of native birdlife, and lack of infrastructure.
982. None of the further submitters spoke at the hearing.

2.3.10.4.2 Housing demand and capacity

983. In her evidence on behalf of *Roger and Janine Southby*, Ms Peters argued that there is demand for more residential zoned capacity in this location. She also raised a number of broad issues with the Council's housing capacity assessment which we discuss in section 2.1.1 of the decision.
984. Mr Russell Lundy, a local real estate agent, appeared at the hearing for *Roger and Janine Southby*. He considered that there was strong demand for real estate in the area, particularly for flat smaller to medium sized sites such as could be provided by rezoning this land.
985. Mr Nathan Stocker, in his response to Submitter Evidence, addressed the matters outlined in Ms Peters' evidence in relation to the housing capacity assessment. This is further discussed in section 2.1.1.

2.3.10.4.3 Transport

986. Ms Peters said the proposed development would be accessed from Riccarton Road West and Bush Road, which are classified in the 2GP as an Arterial Road and Collector Road respectively. In her opinion, given these classifications, both roads are capable of absorbing additional traffic volume. Ms Peters also anticipated that an Integrated Transport Assessment would be prepared at the time of subdivision, and any roading upgrades required would be paid for by the developer.
987. In his response to submitters, Mr Trevor Watson, DCC Transport, commented that an additional 140 dwellings (should General Residential 1 zoning occur) would be a reasonably significant amount of new development and agreed an Integrated Transport Assessment would be required at the time of subdivision. While Mr Watson considered there are no overriding transport issues in relation to the rezoning of this discrete site, he noted that there are potentially significant cumulative effects from growth proposal in and around Mosgiel.

2.3.10.4.4 3 waters

988. Several submitters raised concerns relating to lack of 3 waters infrastructure and appropriate stormwater management.
989. Ms Peters noted in her evidence that if RS212 were rezoned to Large Lot Residential 1, dwellings could be self-serviced for both potable water and wastewater. If RS212 were rezoned to General Residential 1 or Low Density Residential, then reticulated servicing would be required. Ms Peters noted there are two existing connections to the potable water supply within the site boundary, and a wastewater pipe approximately 330m from the site boundary, which the developer would pay to have extended. Ms Peters noted that

stormwater attenuation would be required, and that all proposed structure plans allocate areas for stormwater attenuation.

- 990. In his section 42A report, Mr Morrissey considered that due to the disconnection of the site from existing serviced areas, provision of 3 waters infrastructure would be inefficient, and therefore contrary to Policy 2.6.2.1.ix.
- 991. Mr Scott Cookson, surveyor, appeared at the hearing in support of *Roger and Janine Southby*, and explained that all the proposed structure plans show indicative areas for stormwater management. Mr Cookson stated he did not anticipate any downstream effects from development.
- 992. In its Response to Submitter evidence, DCC 3 Waters commented that the potable water supply in Mosgiel is constrained during summer, and significant upstream network upgrades are required with a medium term timeframe to resolve. For wastewater, an extension would be required; however, significant downstream upgrades are required to both the network and treatment plant, with a medium to long term timeframe to resolve. Additionally, wastewater pumping would be required as the site is at a lower elevation to the potential wastewater network connection point, which is contrary to DCC's Zero Carbon policy.
- 993. With respect to the options presented for self-servicing where there are problems with servicing, we refer to the overall evidence on this and our broad conclusions on this in section 2.1.4.

2.3.10.4.5 Landscape and visual amenity

- 994. Ms Peters considered that the site does not have a high level of rural amenity that requires protection from a landscape perspective. While she acknowledged that rezoning would create a change to the landscape, amenity planting within public spaces within the site is proposed to help mitigate this. Ms Peters anticipated that a structure plan performance standard would require a certain level of amenity tree planting to be undertaken.

2.3.10.4.6 Economic considerations/rural productivity

- 995. *Allen Blackie (FS11.2, FS11.3)* raised concerns around the loss of rural land and potential for reverse sensitivity issues from surrounding farm operations.
- 996. Ms Peters' view was that a performance standard requiring landscape treatment along the Bush Road boundary between the site and the existing farming activities at 114 Riccarton Road West could be included in the structure plan.
- 997. Ms Peters also noted that there are mapped high class soils covering approximately two-thirds of the site, and LUC class 1 soils over the full site. Ms Peters argued that the land is not, however, highly productive due to its size and proximity to residential activity. While the site is currently run as a hazelnut orchard, and has been since 2020, she noted that the landowners have said this has not been economically viable. Mr Roger Southby appeared at the hearing and elaborated on this. It was also supported by a letter from the submitter's accountant, confirming the business has been operating at a loss.
- 998. Mr Tim Heath from Property Economics appeared in supported of *Roger and Janine Southby*. Property Economics were engaged to undertake a high-level economic assessment on the site to assess the potential economic impacts of rezoning the site, in terms of the loss of

highly productive land, and the economic benefits of additional housing. The costs identified were:

- Current value added, based on the Highly Productive soils is estimated at approximately \$37,700 per annum. A further site has potential for primary production.
- The total expected reduction in output to 2028: \$159,000 (discounted).
- Reverse Sensitivity Risk: Medium due to the surrounding area comprising HPL Class 1 Soil.

999. We note that part way through out deliberations the National Policy Statement for Highly Productive Land (NPS-HPL) was released and came into effect. Mr Morrissey, in his response to a request from us (Minute 17), advised that as the site is LUC 1, it meets the interim definition of HPL, and is therefore subject to the NPS-HPL provisions.
1000. Due to the timing of the release of the NPS-HPL, and for the sake of clarity, we have chosen to undertake an analysis of the effect of the NP-HPL on the sites proposed for rezoning as a separate part of our decision, and to focus on whether it changes any of our decisions on the individual sites affected. This analysis is in section 3 of this decision. We note that the analysis in that section has not materially changed our overall decision on the rezoning of this site.
1001. Finally, we also refer to our discussion in section 2.1.5 which considers if there is an expectation that rural-zoned land should always be productive when considering rezoning requests.

2.3.10.4.7 Biodiversity

1002. Ms Peters stated that there is very little existing indigenous biodiversity within the site. She noted that amenity planting within public spaces is proposed, and that this would provide some indigenous vegetation, and therefore habitat for native birds, on the site.

2.3.10.4.8 Hazards

1003. Ms Peters noted that there is a Hazard 3 (flood) Overlay Zone over the site. She advised that the flood risk associated with this on the 2GP planning maps is low.
1004. Ms Peters also considered that geotechnical investigation of the site would be required prior to subdivision.

2.3.10.4.9 Compact city objective

1005. In his section 42A report, Mr Morrissey considered that rezoning the site to residential would result in conflict with Policy 2.6.2.1.d.xi, which requires Dunedin stay a compact and accessible city.
1006. In her evidence, Ms Peters acknowledged that the site is disconnected from existing residentially zoned land, but stated that this does not provide sufficient reason to reject residential rezoning outright, given how well, in her opinion, the site rates against other assessment criteria. Ms Peters advised that within the “gap” between RS212 and the nearest residentially zoned land, there are a number of other undersized rural properties, and that several of these landowners are interested in rezoning and developing their properties.

2.3.10.4.10 RTZ/LLR

1007. Ms Peters suggested applying a Residential Transition Overlay Zone to RS212, which would have a site-specific rule governing release of the land. That is, release would be subject to there being residentially zoned land between RS212 and the existing General Residential 1 zone. Alternatively, Ms Peters suggested that rezoning directly to Large Lot Residential 1 may be appropriate, as that density is more in character with the size of existing properties. Building platforms could be identified on the structure plan to ensure that future intensification is possible.
1008. In his Reply Report, Mr Morrissey considered rezoning to Large Lot Residential zoning was not an efficient use of the land. He also recommended against rezoning small, isolated and disconnected sites.
1009. Ms Christmas also further discussed the appropriate use of Large Lot Residential zoning in her Reply Report.

2.3.10.4.11 Reporting Officer's recommendation

1010. Overall, Mr Morrissey recommended that the site was not appropriate for rezoning due to its poor alignment with Policy 2.6.2.1. He noted the site's disconnection from existing residentially zoned land, the inefficiency associated with infrastructure servicing, and that Large Lot Residential zoning was not appropriate.
1011. Mr Morrissey also commented on the proposal to apply a Residential Transition Overlay Zone (RTZ) as an alternative to GR1 or LDR zoning. He advised that the RTZ method is usually used to hold areas for residential use while infrastructure issues are addressed. Using it to identify a site for future residential zoning depending first upon neighbouring rural zoned land being rezoned to urban is not consistent with this approach.

2.3.10.4.12 Decision and reasons

1012. For the reasons given by the reporting officer, we reject the submissions from *Richard Muir (\$156.002)* and *Roger and Janine Southby (\$191.002)* to rezone RS212. We accept Mr Morrissey's evidence that rezoning this site is inconsistent with Policy 2.6.2.1.d.xi and Policy 2.6.2.1.d.ix, as it would not meet the compact city objectives of the 2GP and there are issues identified with 3 waters servicing.
1013. Even setting aside the NPS-HPL considerations for the moment, we were nevertheless concerned about the cumulative loss of productive rural land, particularly on the Taieri, which was a broad issue raised by Mr Miller and discussed in section 2.2.6. We note the new policy direction in the NPS-HPL requires much greater attention to that issue as is discussed in section 3. With respect to the matters raised about the site not being of a size to provide for an adequate economic return for the landowners, we refer to our discussion on this matter in section 2.1.5.
1014. We are mindful of Objective 2.2.4 in particular, that land should be developed efficiently. If this site is to be considered appropriate for urban expansion at any time, we agree with the reporting officers that it should be done so at GR1 or higher density. This is not appropriate in this case due to the distance of the site from existing residential areas, and the difficulties and inefficiency of servicing it. We discuss the application of Large Lot zoning as an interim zone type until services are available in section 2.1.4 above, and conclude that this is generally inappropriate. That conclusion also applies to this site.

1015. We also note that the site lies entirely within a Hazard 3 (flood) Overlay Zone.
1016. Regarding the submitters' proposal to apply a Residential Transition Overlay Zone to the site, we accept Mr Morrissey's evidence that this is not an appropriate use of the Residential Transition Overlay Zone method, nor do we find that this site is appropriate to identify for future residential expansion. We also comment that we received no evidence that the land between this site and the adjacent residential zones can, or should, be rezoned for residential development and can therefore place no weight on that as a factor that might support the use of RTZ at this time.

2.3.11 North East Valley

2.3.11.1 233 Signal Hill Road, Upper Junction (GF12)

1017. This section addresses the submissions covered in section 5.2.14 of the section 42A report.
1018. Variation 2 proposes to rezone GF12 from Rural zone to Large Lot Residential 1 zone.
1019. GF12 covers the northernmost part of 233 Signal Hill Road, outside the Significant Natural Landscape Overlay Zone (SNL), and is located at the end of Birchfield Avenue and Pleasant Place. The part of the site located within the SNL was not assessed for rezoning and is not within the scope of Change GF12.
1020. Mr Morrissey in the section 42A report outlined that Change GF12 includes both rezoning part of 233 Signal Hill Road, and also protecting a separate area of significant vegetation within the property as an Area of Significant Biodiversity Value (ASBV). He noted that the site slopes steeply, which will affect development potential. There is a medium level hazard associated with slope and geotechnical investigations would be required prior to development.
1021. The site is distant from a commercial centre (4km); however, there is a bus route and cycle lanes along North Road. There are 3 water constraints in relation to development on the site, particularly in relation to capacity downstream in the wastewater network. Self-servicing for both wastewater and potable water would be required, along with stormwater attenuation. The section 42A report advises that access to the site is problematic, with no apparent satisfactory means of accessing the site from North Road, and there are potential problems should Pleasant Place be proposed as the access route.
1022. The notified change includes applying a new development mapped area to the site along with application of a no DCC reticulated wastewater mapped area, scheduling an ASBV, and removal of the high class soils mapped area.

2.3.11.1.1 Submissions received

1023. *Mr Harry Harding*, owner of the site, supported the proposal and spoke at the hearing. Mr Kurt Bowen also provided evidence at the hearing in support of Mr Harding's submission.
1024. A number of other submitters also supported the proposed rezoning.
1025. *Judith Layland (S134.001)* submitted in support of rezoning, but subject to an assessment of the impacts of the proposed development of housing on established properties below the site.

1026. *Philippa Youard (S175.001)* opposed the rezoning but, if not removed, she requested that the proposal is amended so that there is an accurate assessment of the impacts of the proposed change in relation to a number of matters.
1027. Several submitters and further submitters opposed rezoning. A range of concerns were raised including impacts on biodiversity, general amenity values, stormwaterwater run-off, loss of rural outlook, noise pollution, increased traffic and impacts on property values.
1028. None of the submitters or further submitters in opposition spoke at the hearing though we did hear evidence from the reporting officers who addressed the matters raised in those submissions.

2.3.11.1.2 3 waters

1029. A number of submissions raised concern about stormwater run-off and the potential for flooding on existing properties downstream. The submissions outlined significant ongoing problems with run-off into their properties from both Birchfield Avenue and Pleasant Place.
1030. DCC 3 Waters stated that stormwater management would be required in accordance with the rules covering new development mapped areas. It also noted that requiring self-servicing for potable water reduces the risk of overloading the on-site wastewater disposal systems, due to its potential to reduce water use.
1031. Mr Morrissey commented that Stantec had previously assessed the site as having an overall low to medium hazards level, with medium level hazards associated with stormwater within the wider area. However, the area ultimately proposed for rezoning was considered by Stantec as being readily developable.
1032. One submitter raised concerns regarding the need for firefighting water supply, as fire appliances would not be able to connect to the mains system. Mr Morrissey advised that the existing 2GP rules would require appropriate water supply be provided for firefighting; however, he did note that the ability for a fire engine to access the site would be dependent on appropriate road access being provided.
1033. In his evidence on behalf of *Mr Harding*, Mr Bowen commented that the proposed upgrading of Pleasant Place would result in a gradient that a fire appliance would be able to access. He also noted there is a foul sewer service located in Birchfield Street and commented that this appeared to be extendable to provide wastewater disposal to the sites.
1034. Mr Bowen stated that the submitter agreed that a new development mapped area should be applied over the area in order to manage stormwater. The larger site sizes required in the Large Lot Residential 1 Zone would mean that there is sufficient available space for individual on-site stormwater detention facilities. Overall, Mr Bowen was confident that methods were available to ensure that any adverse effects from stormwater are no more than minor.

2.3.11.1.3 Transport

1035. Several submissions raised concerns in relation to accessing the site via Birchfield Avenue or Pleasant Place. They noted that the roads are in poor condition, not suited for heavy vehicles, and are narrow, resulting difficulty for emergency vehicle access. One submitter also questioned the accessibility of public transportation from the site, noting that access to North Road is difficult at present.

1036. Mr Watson, DCC Transport, identified major issues with the ability to access the site. The site has frontage to two unformed legal roads; however, access via either of these roads is problematic. He was not confident in relation to the feasibility of upgrading them to an acceptable standard. Mr Watson did not support rezoning the site unless the concerns relating to access could be adequately addressed.
1037. With respect to public transport, Mr Morrissey said that the calculated distance of approximately 400m from the site to the closest bus stop was measured from the edge of GF12, adjacent to Birchfield Avenue. The distance from the furthest point in the site to the same bus stop is approximately 650m.
1038. In his evidence, Mr Bowen identified three options for access, with two of these being reasonably feasible and the third also feasible, but dependent on the consent of an adjoining landowner. The first option involves the extension of a full road formation within the Pleasant Place legal road corridor. He provided a plan outlining the works required. He said the cost would be significant, but feasible when spread between eight sites. The second option is to provide a new access to Signal Hill Road (to the south), via a right-of-way over a short distance of 235 Signal Hill Road. Mr Bowen noted this right of way already exists, but would not provide for non-motorised transport modes (although he notes a separate footpath could be constructed along the Pleasant Place corridor to provide for pedestrian and cycle access). The third option is providing road access from North Road through 235 Signal Hill Road along a road expected to be constructed through this site. However, the owner of 233 Signal Hill Road has no control over this access.
1039. In his response, Mr Watson reiterated that Pleasant Place is currently unsurfaced beyond 8C Pleasant Place, and would require considerable improvements to provide a satisfactory access. Mr Watson considered that the upgrading works to provide access are significant, and without detailed engineering plans being provided at this stage to demonstrate that the upgrades are in fact achievable, he remained of the view that the proposed rezoning cannot currently be supported.

2.3.11.1.4 Biodiversity

1040. Submissions raised issues regarding loss of native bush and biodiversity in relation to the proposed rezoning.
1041. Mr Morrissey clarified that the area identified for rezoning does not include the area of native bush identified as meeting ASBV criteria. He noted that, while fragmentation of indigenous vegetation is an area of concern identified by Wildland Consultants, GF12 is located immediately adjacent to existing residentially zoned land and in his view, the risk of fragmentation is reduced in this locality.

2.3.11.1.5 Productive land

1042. One submission questioned the assessment of effects on high class soils, noting that the area identified as subject to high class soils appears larger than stated in the section 32 report.
1043. Mr Morrissey acknowledged that the area of GF12 covered by a high class soils mapped area is approximately 9%, not the 3% originally stated. While he acknowledged rezoning would result in loss of these soils, he considered the productivity potential of the land low and not significant compared to the benefits that would result from residential zoning.

1044. We note that there is no Land Use Classification (LUC) 1 – 3 soils present on any part of this site, and it is therefore not subject to the National Policy Statement on Highly Productive Land (NPS-HPL).

2.3.11.1.6 Rural amenity and outlook

1045. Several submissions noted the loss of rural amenity and increased noise as reasons for opposing the rezoning.
1046. The section 42A report commented that the site is not easily viewed from Signal Hill Road, due to the local topography and existing vegetation. It is identified as potentially visible from some locations on the west side of the north-east valley. Mr McKinlay, DCC Landscape Architect, considered that Large Lot development, where it is visible, will likely be seen as an extension of the neighbouring residential area, and the overall effects on existing visual amenity and landscape character will be low.

2.3.11.1.7 Other infrastructure

1047. One submission raised concerns about the provision of electricity and broadband to the sites.
1048. Mr Morrissey in the section 42A report outlined that consultation had been undertaken with various infrastructure providers for the greenfield sites, including with Aurora (electricity network provider), and Chorus (telecommunication infrastructure provider) and no issues were raised in relation to servicing this area.

2.3.11.1.8 Reporting Officer's recommendation

1049. Mr Morrissey recommended that the submissions opposed to the notified rezoning be accepted and the site returned to its previous Hill Slopes Rural zoning. His reasons for the recommendation were based on the evidence of Mr Watson that road access to the site would only be possible following significant upgrades, and there was considerable uncertainty about whether this could be feasibly achieved. He also reiterated that, despite Mr Bowen's comments that connection to the wastewater network appears feasible, the site would need to self-service should rezoning proceed.

2.3.11.1.9 Decision and reasons

1050. We accept the submissions who opposed the rezoning of GF12 and sought this be removed.
1051. The main concern was to do with the significant infrastructure required to develop this land, and we consider there is not sufficient evidence to satisfy us that rezoning is feasible at this time.
1052. Whilst we acknowledge Mr Bowen had provided some conceptual level potential options to provide access, these were not developed into sufficient detail that they could be properly assessed as part of our process, and the evidence we heard from Mr Watson was that there are still a number of detailed access considerations to be resolved. We do not consider it appropriate, and it is inconsistent with Policy 2.6.2.1.d.x, to rezone a site for residential use where there is such significant uncertainty as to whether satisfactory access can be provided.
1053. We are also concerned about the lack of capacity in both the wastewater and potable water networks meaning that these sites will be required to self-service. We note that Variation 2

has been focused on 'easy wins' to add additional housing capacity in line with the Plan's strategic directions and the requirements set out in the NPS-UD for well-functioning urban environments and large lot, self-serviced sites do not fit this brief well.

1054. Overall, having considered the costs and benefits of zoning in accordance with section 32AA, we consider that in this case the costs associated with rezoning GF12 would outweigh the benefits. We therefore reject the submissions that supported rezoning the site or sought different amendments.
1055. The amendments implementing our decision are outlined in Appendix 1 with the reference 'Change GF12/S152.001'.

2.3.11.2 87 Selwyn Street, North East Valley (RTZ2)

1056. This section addresses the submissions covered in section 5.3.2 of the section 42A report.
1057. RTZ2 is an approximately 9ha site located at the western end of Selwyn Street, between Pine Hill and North Road. The site slopes moderately to steeply and has a generally easterly aspect. The lower portion of the site is adjacent to Lindsay Creek.
1058. Variation 2 proposed to rezone RTZ2 from Rural Residential 2 zone (with a Residential Transition Zone overlay) to General Residential 2 zone with a NDMA overlay and proposed structure plan to manage vegetation clearance within three small areas of identified biodiversity value. The rezoning would provide for approximately 48 – 50 dwellings under General Residential 2 density.

2.3.11.2.1 Submissions received

1059. *Anthony Fitchett (S11.001)* sought to amend the change so that development of the site did not require removal of the trees on 14A Forrester Avenue. Two further submissions were received on this submission, one in support and one opposing. *Mr Fitchett* was the only submitter for this site who spoke at the hearing.
1060. *Tim Hyland (S70.001)* sought to amend Change RTZ2 so that there is a connection (walkway or roadway) between the site and Pine Hill/Liberton, in order to connect this area with houses and schools in North-East Valley. Two further submissions were received on this submission, one in support and one opposing.
1061. *Yolanda van Heezik (S82.014)* sought to amend Change RTZ2 so that rezoning is subject to the restoration of native biodiversity in a strip of at least 20m width along the western edge of Lindsay Creek. Two further submissions were received on this submission, one in support and one opposing.
1062. *ORC (S127.037) (Rosalind Whiting (S10.001), Manson Wright (S121.001), Eric Dakin (S164.001), and Hazel Heal & Robert Van Hale (S171.001)* all opposed the rezoning and sought for it to be removed.

2.3.11.2.2 Biodiversity

1063. A number of submitters raised concerns related to loss of biodiversity, and some submitters suggested types of mitigation that could be implemented should rezoning proceed.

1064. To inform the section 42A report Mr Kelvin Lloyd of Wildland Consultants provided broad comments with respect to rezonings in the North East Valley as part of the section 42A report. He discussed that one of the most concerning adverse effects of increasing residential development is the fragmentation of existing vegetation. He also raised concerns about the impacts to Lindsay Creek from development at the site.
1065. The section 42A report advised that the biodiversity assessment previously undertaken by the DCC had identified three areas of indigenous biodiversity value that were proposed to be protected via rules in the structure plan.
1066. Mr Morrissey stated that the new development mapped area provisions should address concerns relating to stormwater impacts to Lindsay Creek. While overall he recommended that the notified proposal be reversed and the GR2 zoning not proceed, he recommended that if the rezoning were to proceed the suggestion from *Ms van Heezik* be implemented, and that development should be subject to restoration of indigenous biodiversity in a 20m strip along the western edge of Lindsay Creek. He also recommended that, should rezoning proceed, consideration be given to linking the two remnant clusters of kanuka forest on the site through additional native plantings to create one larger area, as was recommended by DCC Landscape Architect Mr McKinlay.
1067. With respect to the concern raised by *Mr Fitchett*, Mr Morrissey noted that the trees in question are located outside of the RTZ2 area and could therefore not be required to be removed through development of RTZ2.

2.3.11.2.3 *Transportation*

1068. Submissions raised concerns about the existing roading network, additional traffic generated, and the inadequate nature of Selwyn Street for access. *Mr Hyland* sought that amendments are made to require a connection between the site and Pine Hill/Liberton.
1069. Mr Watson, DCC Transport, raised concerns relating to needing to upgrade both the Selwyn Street bridge and road into the site, as well as the need to upgrade the Selwyn Street/North Road intersection. He noted the constrained legal width of Selwyn Street in certain areas could make this challenging to provide. Mr Watson stated that an Integrated Transport Assessment would be required at the time of subdivision. He also outlined that he supported a potential connection to Liberton and Pine Hill, however it is unclear how this could be achieved.
1070. Mr Morrissey commented in the section 42A report that the transportation assessments and upgrades that are required are significant. He stated that further information from the developer would be helpful in ensuring these are feasible prior to a decision being made on any residential rezoning. We did not receive a submission from the landowner of this site.

2.3.11.2.4 *3 waters*

1071. Submitters raised concerns regarding 3 waters, and in particular stormwater management and the potential flooding of Lindsay Creek.
1072. The DCC 3 Waters advice, as part of the section 42A report, was that stormwater management would be required as per the rules covering the new development mapped area. This would require that there is no increase in the pre-development peak stormwater discharge rate from the development area into any public or private stormwater system, or that any adverse effects from an increase in the discharge are no more than minor. In

response to other the concerns raised by submitters it noted that the noise generated from pump stations is typically very low.

1073. Mr Morrissey, supported by evidence from DCC 3 Waters, stated that there are constraints in the wastewater network infrastructure that services the site. However, it is proposed that a communal wastewater detention system would be required to address these and was supported by 3 Waters at the proposed higher density being proposed. We were advised this was consistent with the section 32 report where on-site communal wastewater detention systems are only supported if over 50 dwellings are to be developed, due to the ongoing maintenance required.

2.3.11.2.5 Hazards

1074. *Manson Wright (S121.001)* raised concerns about the lack of a geological survey to identify the effect of development on ground stability.
1075. Stantec advised there are high level hazards associated with slope instability on this site. In his report, Mr Paterson noted that the majority of the site has a slope of over 15 degrees, and half the site is over 20 degrees. There is a previous history of land instability nearby, within similar geology and slope angles. He found that while some of the site is within typical stability limits, there are significant areas of possible instability.

2.3.11.2.6 Other issues

1076. Two submitters raised concerns that the area's topography mean it would amplify sound.
1077. Mr Morrissey acknowledged this concern and considered that disruption would be most significant during any construction phase, however this would decrease once construction was completed.

2.3.11.2.7 Reporting Officer's recommendation

1078. Mr Morrissey highlighted the high hazard risk present over parts of the site. Based on this, he did not consider the site is suitable for medium density development, despite it being a site originally notified for rezoning as part of the section 32 assessment. While he acknowledged there are potentially parts of the site that may be considered appropriate for development, he considered it unlikely that the minimum 50 residential units required to support an on-site communal wastewater system is achievable. He also noted the constraints associated with providing appropriate transport infrastructure to service the site. Overall, he recommended the land not be rezoned through Variation 2.

2.3.11.2.8 Decision and reasons

1079. We accept the submissions that opposed the notified rezoning of RTZ2 to General Residential 2. We have significant concerns about the appropriateness of providing for more intensive residential development on this site, given the information and evidence before us.
1080. We have considered the costs and benefits of zoning in accordance with section 32AA. In particular, the high hazard risk identified by Stantec is incompatible with Policy 2.6.2.1.viii, which is that the potential risk from natural hazards is no more than low. We also have concerns about the feasibility of providing appropriate road access to the site. We note that the site is currently not able to be serviced for wastewater and that the higher density was

required to enable an on-site wastewater system to be feasible. We note that there were no submitters who directly promoted rezoning, and that no expert evidence was received to address the issues outlined by Mr Morrissey in the section 42A.

1081. Consequentially, our decision is to remove the proposed General Residential 2 zoning, new development mapped area, and structure plan mapped area for this land. The notified changes to rules 9.6.2 and 15.11.5 in relation to wastewater management are also removed. This means that the previous Rural Residential zoning is re-instated, and the Residential Transition Overlay Zone is retained. The changes implementing this decision are shown in Appendix 1 with the reference 'Change RT22/S121.001'.

2.3.11.3 Part 235 Signal Hill Road (RS052)

1082. This section addresses the submissions covered in section 5.4.1 of the section 42A report.
1083. This 5.47ha site is located in North East Valley. The section 42A report explained that, at the time of notification, the area was zoned Rural Hill Slopes but as a result of an appeal on the 2GP has since been rezoned to Rural Residential 1 zoning.

2.3.11.3.1 Submissions received

1084. We note that all original submissions seeking rezoning were subsequently withdrawn, and therefore there are no original submissions that seek RS052 be rezoned through Variation 2. However, there are a number of submissions seeking either that the change is rejected or, if not rejected, that various requirements are included within a structure plan.

2.3.11.3.2 Reporting Officer's recommendation

1085. As there is now no scope to amend the zoning of RS052 through Variation 2, Mr Morrissey recommended accepting the submissions seeking that the change is rejected, and rejecting those that seek the inclusion of a structure plan.

2.3.11.3.3 Decision and reasons

1086. We accept the Mr Morrissey's recommendation and accept the submissions seeking the site is rejected for rezoning, and reject those remaining submissions seeking a structure plan is applied over the area should rezoning proceed.

2.3.11.4 210 Signal Hill Rd (RS161)

1087. This section addresses the submissions covered in section 5.4.8 of the section 42A report.
1088. RS161 is located on Signal Hill in North Dunedin and comprises part of 210 Signal Hill Road. The part of the site sought to be rezoned is 6.3ha and is currently zoned Rural Hill Slopes. A small part of 210 Signal Hill Road, immediately adjacent to the proposed rezoning area, is already zoned General Residential 1 and therefore the site directly borders existing residential zoning. RS161 fully overlaps with the Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone (SNL).
1089. The section 32 report indicates that the site was rejected due to the presence of the SNL. Residential development was considered inappropriate due to the significance of the landscape values and their protection under the 2GP policy framework.

2.3.11.4.1 Submissions received

1090. *Bob and Rose Cunninghame (S227.001)* submitted to rezone part of 210 Signal Hill Road to either Large Lot Residential (1 or 2) or Rural Residential 1 zone. We note that, as per our decision on scope⁸, rezoning to Rural Residential 1 is not a part of Variation 2, and we could not therefore consider that option. The submitters proposed that a structure plan is applied to enable residential activities to be undertaken in a manner that is compatible with the values of the landscape, limiting development to seven lots in addition to the existing one. The submitter also proposes covenanting approximately 9.7ha of established kanuka/broad leaf vegetation and placing an additional 6.3ha area into an Area of Significant Biodiversity Value (ASBV). A landscape assessment prepared by Mr Hugh Forsyth accompanied the submission, and outlines some of the proposed structure plan controls and mitigations.
1091. This submission was supported by two other further submitters; *Theresa Molteno (Molteno Trust Company No.1 Limited and Molteno Trust Company No. 2 Limited) (FS238.1)* and *Christian Ohneiser (FS47.1)*.

2.3.11.4.2 Submitters' response to the section 42A report

1092. Mr Kurt Bowen on behalf of *Bob and Rose Cunninghame (S227.001)* appeared at the hearing and, in response to the landscape concerns raised in the section 42A report, outlined that the submitter is now proposing to reduce the number of new building platforms from seven to three. This would be achieved by rezoning the area to Large Lot Residential 2, and application of a structure plan to cap the number of resultant sites. Mr Cunninghame also attended the hearing.

2.3.11.4.3 Landscape

1093. Mr Forsyth provided a landscape assessment on behalf of the submitter that concluded the short-term adverse landscape effects will be low, while the longer term effects would be very low. He said short term visual effects are considered to be moderate/high while the long term visual effects are assessed a low/moderate. This assessment is based on the Institute of New Zealand Landscape Architects seven-point scale. Mr Forsyth also outlined a number of proposed structure plan conditions, including designated building platforms, height restrictions, colour restrictions, light reflectance restrictions, and planting requirements.
1094. Mr Bowen noted that the three building platforms now proposed have been selected because they are very well screened from external views of the property.
1095. In his Reply, having considered the revised proposal, Mr McKinlay agreed that the reduced number of proposed building platforms would reduce the potential for effects on existing landscape and visual amenity values from development. In his view, if the proposed design controls are implemented, the potential adverse effects on existing landscape character values of the SNL could be reduced to moderate/low levels. Overall, Mr McKinlay concluded that the effects of this rezoning proposal on landscape character appeared to be manageable with the implementation of design controls. However, he also noted that residential rezoning in an SNL appears to be inconsistent with Policy 2.6.2.1.d.iv.

⁸ Variation 2 Out of Scope Decision Report, 31 May 2021. Paragraph 59. [Variation-2-Out-of-Scope-Decision-Report-31-May-2021.pdf \(dunedin.govt.nz\)](https://www.dunedin.govt.nz/variation-2-out-of-scope-decision-report-31-may-2021.pdf)

2.3.11.4.4 Biodiversity

1096. In a report to inform the section 42A report, Mr Kelvin Lloyd of Wildland Consultants (for DCC) identified areas of regenerating forest and kanuka forest and recommended that these be protected. Mr Morrissey commented that the areas identified by Wildland Consultants are largely covered by the submitter's proposed vegetation protection. Mr Morrissey also highlighted that the biodiversity offsetting proposed by the submitter is significant and a potential benefit if rezoning proceeds.

2.3.11.4.5 Transport

1097. Mr Watson of DCC Transport noted in the section 42A report that rezoning would have an insignificant effect on the wider transportation network due to the small quantum of development. Mr Watson did note however that rezoning to Large Lot Residential may result in a density where residents would expect urbanised transport infrastructure (such as a footpath or a shoulder on the road).
1098. Mr Bowen stated that the reduced number of lots now proposed is unlikely to require the type of urbanised transport infrastructure suggested in the section 42A report. He also provided comment that construction of a shoulder on the southern side of Signal Hill Road does not appear to be problematic and that there appears to be sufficient width.
1099. In his Reply, Mr Watson reiterated that rezoning could be supported from a transportation perspective, subject to an Integrated Transport Assessment being provided at the time of subdivision.

2.3.11.4.6 3 waters

1100. In the section 42A report, an assessment of servicing was provided by DCC 3 Waters who advised that, for potable water supply, significant upstream upgrades would be required. Wastewater flows into an infrastructure constrained area downstream of the site and there are existing wastewater overflows occurring in wet weather in North Road with discharge to the environment (Lindsay Creek). Additional flows would exacerbate this and DCC 3 Waters advised that rezoning should not occur until wastewater upgrades are completed. Stormwater would need to be managed in accordance with the new development mapped area provisions; however, DCC 3 Waters expressed concerns over the affordability of this.
1101. Mr Bowen responded that the three new sites proposed would be self-serviced for 3 waters. He stated that, if necessary, stormwater detention and/or treatment devices can be incorporated into house designs.

2.3.11.4.7 Reporting Officer's recommendation

1102. Overall, Mr Morrissey did not support rezoning the site. While he acknowledged the submitter's significant biodiversity proposals, he considered that, fundamentally, the SNL over this site meant residential development is not appropriate.
1103. In his Reply, he advised that Large Lot Residential zoning with a limited number of larger sites was more akin to rural residential zoning, and that this would be more appropriately considered under a future Rural Residential plan change.
1104. Ms Christmas also further discussed RS161 in her Reply. She raised issues of natural justice in allowing the consideration of what is effectively rural residential zoning for this site

through a 'back door' approach. She also raised an issue regarding plan integrity and clarity that would result in having a set of plan rules that reflect one zone type (Rural Residential zone) but called a different zone name (Large Lot Residential) and she recommended this not be implemented. Ms Christmas agreed with Mr Morrissey that the appropriateness of a rural residential scale development is best considered through a future rural residential plan change rather than through Variation 2.

2.3.11.4.8 Decision and reasons

- 1105. We reject *Bob and Rose Cunninghame's (S227.001)* submission to rezone part of 210 Signal Hill Road to residential. We agree the Reporting Officer's evidence that residential zoning is fundamentally incompatible with the values of an SNL and hence the proposal does not align with Policy 2.6.2.1.d.iv. On this basis, we do not consider that residential zoning is appropriate. This approach is consistent with our discussion on residential zoning in SNLs in section 2.1.3 above.
- 1106. With respect to the 3-lot proposal put forward by the submitters we agree with the reporting officers' that, in order to maintain plan integrity, this could only be achieved via a rural residential zoning, with the structure plan rules as an overlay, due to the site sizes proposed.
- 1107. We had determined that several other proposals for rural residential zoning were out of scope in our earlier decision⁹. In the Panel's view maintaining consistency in our decisions on scope is important to ensure the process is fair. Accepting this proposal would be unfair to other submitters whose submissions were struck out, and also for other potential submitters who may have made submissions if the scope had been broader.
- 1108. We acknowledge the submitter's proposed significant biodiversity enhancements. However, this does not alter our views on the more fundamental matters outlined above.

2.3.11.5 300 - 304 Leith Valley Road (RS168)

- 1109. This section addresses the submissions covered in section 5.4.11 of the section 42A report.
- 1110. RS168 site is located immediately adjacent to Dunedin's Northern Motorway, on the lower slopes of Mount Cargill. The site is 31.1ha in size and is presently zoned Rural Hill Slopes. The entire site overlaps within the Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone (SNL). It is surrounded on all sides by rural zoned land, although across the motorway there are blocks of Rural Residential 2 zoning. The section 42A report notes that the nearest residential zoning is over 1,700m away in Pine Hill, and that the site is 7,100m from the Gardens suburban centre. The section 32 report indicates that site was originally rejected as fails to support the compact form/city policies due to its location, and it is subject to a Significant Natural Landscape (SNL) Overlay Zone and was therefore considered inappropriate for residential development due to the protection of significant landscape values under the 2GP policy framework.

2.3.11.5.1 Submissions received

- 1111. *Simon Robert and Lisa Jayne Burrough (S299.001)* sought to rezone RS168 to General Residential 1. The submitters stated that the locality has a pleasant although unmemorable landscape but does provide good building platforms that could be adequately screened from

⁹ Variation 2 Out of Scope Decision Report, 31 May 2021. Paragraph 59. [Variation-2-Out-of-Scope-Decision-Report-31-May-2021.pdf \(dunedin.govt.nz\)](https://dunedin.govt.nz/variation-2-out-of-scope-decision-report-31-may-2021.pdf)

publicly accessible viewpoints. No specific hazards are mapped against the property, and the site is generally unproductive in terms of primary industry. The submission noted that rezoning the site would provide additional residential capacity to Dunedin. A further submission from *Simon Burrough (FS225.1)* supported the rezoning in part but sought amendments so that only the lower slopes closest to the motorway are rezoned, and to Large Lot Residential rather than General Residential 1.

1112. The *ORC (FS184.86)* opposed rezoning as it would allow for high density development in a rural/semi-rural area, which does not appear to have any planned public infrastructure to support such density.

2.3.11.5.2 Reporting Officer's recommendation

1113. Mr Morrissey considered that rezoning the site to residential has multiple conflicts with Policy 2.6.2.1. The key conflict being the site is with Policy 2.6.2.1.d.iv, as the site is fully covered by the SNL.
1114. Mr Morrissey also noted that the site is disconnected from existing residentially zoned land and this would result in conflict with Policy 2.6.2.1.d.xi, which requires Dunedin stays a compact and accessible city. If additional infrastructure was required, given this disconnection, this would result in inefficient and ineffective public infrastructure (Policy 2.6.2.1.d.ix). He also considered that rezoning would also conflict with Policy 2.6.2.1.c, given the site's distance to public transport, centres, and other community facilities, and the site ranked poorly in relation to likely carbon emissions derived from commuting. These concerns applied in respect of any residential zone type.
1115. We did not hear from any submitters in relation to this site.

2.3.11.5.3 Decision and reasons

1116. We reject the submissions from *Simon Robert and Lisa Jayne Burrough (S299.001)* and *Simon Burrough (FS225.1)* to rezone RS168 to General Residential 1. We accept the further submission from the *ORC (FS184.86)*.
1117. We accept the evidence of Mr Morrissey that rezoning the site is not consistent with Policy 2.6.2.1 for a number of reasons and therefore the site is unsuitable for residential rezoning. We received no evidence to challenge his assessment.

2.3.11.6 234/290 Malvern Street, Leith Valley (RS176)

1118. This section addresses the submissions covered in section 5.4.16 of the section 42A report.
1119. RS176 is located in the Leith Valley and is zoned Rural Residential 2. The total site area is 16.5ha. It is generally surrounded by Rural Residential 2 zoning, though the zoning on the opposite side of Malvern Street is General Residential 1. There are a number of overlays over the site, including the Leith Valley urban biodiversity mapped area (UBMA), a critical electricity infrastructure corridor mapped area, a Hazard 2 (flood) Overlay Zone, and the Water of Leith esplanade reserve mapped area.
1120. The section 32 report states that the site was rejected as access is constrained by the UBMA and there are downstream wastewater network capacity issues. The report also noted that two vehicle access points would be required.

2.3.11.6.1 Submissions received

1121. *Peter Marr & Marja van Loon (S77.001)* sought to rezone the site to either Large Lot Residential 1, Large Lot Residential 2, or Rural Residential 1. Their submission noted that the use of a structure plan to outline any appropriate controls would be supported.
1122. *Nicholas Darling (FS180.1)* and *Karen and Wayne Grant (FS127.1)* supported the submission from *Peter Marr & Marja van Loon (S77.001)*.
1123. *Harlow Brundell (FS100.1)*, *Ilona Pfeifer (FS110.1)*, *Kaitrin McMullan (FS126.1)*, *Karole Caulfield (FS130.1)*, *Kirsten Eden-Mann (FS140.1)*, *Larissa Curzon (FS144.1)*, *Lisa & Shaun Blondell (FS151.1)*, *Mark Knudson (FS162.1)*, *Michael and Christine Marshall (FS174.1)*, *Peter Pfeifer (FS195.1)*, *Ann-Kathrin and Sanjay Schlesselmann and Thakur (FS20.1)*, *Robert Pfeifer (FS204.1)*, *Sheryl Wallace (FS221.1)*, *Shona McDonald (FS224.1)*, *Tim Field (FS240.1)*, *Cedric Gerald and Janet Michal Carrington (FS43.1)*, *Ceri and Robert Hurst (FS44.1)*, *Clive Barrow (FS57.1)*, and *Garth Campbell (FS93.1)* all opposed the submission from *Peter Marr & Marja van Loon (S77.001)*. A wide range of concerns were raised with the proposed rezoning, as addressed below. The further submitters did not appear at the hearing.

2.3.11.6.2 Scope of proposal with respect to Variation 2

1124. *Peter Marr & Marja van Loon (S77.001)* provided additional information regarding their proposal. This included a landscape effects assessment and a draft structure plan. The submitters amended their proposal to suggest a 'Large Lot Residential 2' zoning but subdivision into three lots total (one existing and two new) which would lead to an average site size of around 5ha. That being a lower than normal density for a rural residential zoning.
1125. Speaking on behalf of *Peter Marr & Marja van Loon* at the hearing, Mr Kurt Bowen confirmed that the submitter is now only seeking a total of two additional dwellings. He tabled a letter prepared by Mr Jason Hynes of LJ Hooker that stated that the city has a lack of supply of larger-sized residential properties. He also outlined that in his view, the proposal is compatible with the purpose of Variation 2 and would provide further development capacity. While he acknowledged that the appearance of the proposed rezoning is more akin to the type of properties that are found in Rural Residential zones, in his view such zoning and development is indeed possible through Variation 2. *Peter Marr & Marja van Loon* attended the hearing and outlined their history of site ownership.
1126. We note that, consistent with our decision on the scope¹⁰ of Variation 2, rezoning to Rural Residential 1 is not an outcome that is part of Variation 2. We have assessed this as Large Lot Residential zoning, but note that the anticipated outcome is much more akin to Rural Residential zoning.

2.3.11.6.3 Biodiversity

1127. A number of further submitters raised concerns regarding the potential impacts development could have on biodiversity in the area.
1128. Mr Kelvin Lloyd, of Wildland Consultants, assessed the biodiversity values of the site for the DCC. The assessment identified areas of vegetation to the north and west of the existing house that comprised significant vegetation as they meet the 2GP criteria of rarity and

¹⁰ Variation 2 Out of Scope Decision Report, 31 May 2021. Paragraph 59. [Variation-2-Out-of-Scope-Decision-Report-31-May-2021.pdf \(dunedin.govt.nz\)](https://www.dunedin.govt.nz/variation-2-out-of-scope-decision-report-31-may-2021.pdf)

ecological context and therefore warrant protection. Mr Morrissey noted the areas identified by Wildland Consultants are almost exactly aligned with the “bush management areas” in the submitter’s proposed structure plan, and that all proposed building platforms are situated in open paddock areas. Mr Morrissey commented that, based on the 3 lot proposal, he was satisfied that the submitter’s proposal would not adversely impact indigenous biodiversity should rezoning proceed.

2.3.11.6.4 Landscape, rural character, amenity

- 1129. A number of further submitters raised concerns relating to loss of rural outlook and rural land, and related issues including loss of rural view, loss of greenspace, adverse impacts on visual amenity, and loss of a rural buffer around the city.
- 1130. A landscape assessment prepared by Mr Mike Moore, consulting landscape architect for the submitter, assessed the effects of the proposed 3-lot subdivision and concluded that adverse effects of the proposal on landscape values would be very low in the short term (associated with an increased in buildings) and would be positive in the long term, primarily associated with enhancement of native bush.
- 1131. Mr McKinlay initially provided an assessment of the proposed rezoning based on the maximum development potential under Large Lot Residential 1. This concluded that the current zoning (Rural Residential 2) is the most appropriate in terms of maintaining and enhancing the character and visual amenity of the surrounding area, and that the site makes a notable contribution to the rural outlook of surrounding residential areas and forms part of a large contiguous area of rural-residential or rural land. Subsequently, he considered the amended proposal for a 3 lot subdivision and agreed with Mr Moore that the adverse effects of this updated proposal would be minor. He considered that the amended proposal would result in a built density that will generally retain the rural residential character of the surrounding area. There would also be positive effects associated with the proposed additional planting, and the proposed management of the existing native bush.
- 1132. With respect to concerns about amenity as raised by several further submitters, Mr Morrissey acknowledged that residential development would have some adverse effects on general amenity, but that two additional dwellings as proposed would be likely to have a negligible effect.

2.3.11.6.5 Transport

- 1133. Several of the further submitters raised concerns relating to access and transportation.
- 1134. Access to the new sites was proposed to be via a right of way from Patmos Avenue rather than Malvern Street. A number of landscape controls were also proposed, aimed at ensuring that development integrates into the existing landscape.
- 1135. DCC Transport initially assessed the site at Large Lot Residential density and noted that an Integrated Transport Assessment would be required. With respect to the proposed 3-lot subdivision, DCC Transport advised that such a proposal would have no noticeable effects on the wider transport network, and that any detailed matters could be addressed as part of a subdivision consent.

2.3.11.6.6 3 waters

- 1136. Further submitters raised concerns relating 3 waters servicing and infrastructure.

1137. DCC 3 Waters initially provided an assessment of servicing the site based on Large Lot Residential density. It concluded that there are issues associated with rezoning this site and that it should be excluded from rezoning, primarily due to stormwater concerns and some wastewater issues. Most notably the stormwater concerns outlined included the potential negative impact on the Otago Regional Council's level of service for flood protection associated with the Water of Leith and concerns about the affordability of such stormwater infrastructure. DCC 3 Waters also noted that there are known wastewater overflows immediately downstream of the site in significant wet weather and some downstream upgrades would be required.
1138. In his hearing evidence Mr Bowen noted that the new sites could self-service for 3 waters, and that he considered it unlikely two new houses would result in any noticeable adverse effects with respect to 3 waters infrastructure.

2.3.11.6.7 Hazards

1139. Several of the further submitters raised concerns relating to hazards and potential for slope instability.
1140. The submitters provided an old geotechnical report for the site (unknown date), prepared by Geolink Land Investigations. This report supported development on the proposed sites.
1141. Stantec had made an assessment at the time of the section 32 report concluding the site had low and medium level hazards. This was reviewed in light of the concerns raised by further submitters, and Mr Paterson advised that there was no change to their assessment. Mr Paterson noted that the Geolink report is consistent with his own assessment of the site and that the evidence provided is sufficient validation that the site is suitable for the proposed rezoning. Mr Morrissey noted that the two new proposed dwellings are within the area identified as low risk by Stantec.

2.3.11.6.8 Other issues

1142. The further submitters raised other concerns including that the site is south facing, that transformer lines run through the property, and the potential loss of productive farmland.
1143. Mr Morrissey responded to these issues in the section 42A report and did not consider any of them significant enough to prevent rezoning.

2.3.11.6.9 Reporting Officer's recommendation

1144. Mr Morrissey acknowledged the proposed 3-lot subdivision would be likely to have low adverse effects; however, he did not recommend rezoning. He considered that rezoning the site as per the amended proposal ('Large Lot Residential 2' with a maximum of three lots) does not reflect the zones used in the 2GP and the proposal was in fact a proposal that better fit as Rural Residential 1 zoning, with a lower density. He stated that Rural Residential zoning is not part of Variation 2, and he did not consider that implementing the new proposal to be in keeping with the purpose of the variation and therefore out of scope of the variation. He suggested that such a proposal should be more appropriately dealt with as part of a future Rural Residential plan change.
1145. In his Reply, Mr Morrissey further considered that rezoning would be unfair to other landowners around the city who may also have wanted a rural residential density development/zoning, but did not submit as this was not within the scope of Variation 2.

1146. Ms Christmas also addressed rural residential type zoning in her Reply. She raised issues of natural justice in allowing the consideration of what is effectively rural residential zoning for this site through a 'back door' approach. She also raised an issue regarding plan integrity that would result in having a set of plan rules that reflect one zone type (Rural Residential zone) but called a different zone name (Large Lot Residential) and she recommended this not be implemented for reasons of plan integrity and clarity. Ms Christmas agreed with Mr Morrissey that the appropriateness of a rural residential scale development is best considered through a future rural residential plan change rather than through Variation 2.

2.3.11.6.10 Decision and reasons

1147. We reject the submission from *Peter Marr & Marja van Loon (S77.001)* seeking to rezone RS176 to Large Lot Residential due to the issues canvassed in the evidence.
1148. There would be adverse effects associated with the original submission for large lot residential in terms of landscape, visual amenity, and stormwater and wastewater. Whilst these effects would be diminished with the proposal presented for 3 lots at the hearing we are limited in our ability to approve what is essentially a proposal for rural residential development.
1149. With respect to the 3-lot proposal put forward by the submitters, we agree with the reporting officers that in order to maintain plan integrity, this could only be achieved via a rural residential zoning as the underlying zoning with the structure plan rules as an overlay due to the site sizes proposed. We had determined that several other proposals for rural residential zoning were out of scope in our earlier decision¹¹ and for consistency we find this alternative proposal also out of scope. In the Panel's view maintaining consistency in our decisions on scope is important to ensure the process is fair. Accepting this proposal would be unfair to other submitters whose submissions were struck out, and also for other potential submitters who may have made submissions if the scope had been broader.

2.3.11.7 35 Watts Road, 37 Watts Road, 43 Watts Road, Part 309 North Road (RS206, RS206a, RS77)

1150. This section addresses the submissions covered in section 5.4.21 of the section 42A report.
1151. These sites are located in the North East Valley and are adjacent to the site of the former Palmers quarry. The section 42A report considered submissions seeking rezoning of these sites collectively, with the total site area being 9.4ha.
1152. A number of overlays are present:
- the Flagstaff-Mt-Cargill Significant Natural Landscape Overlay Zone (SNL) applies to most of RS206;
 - a small part of RS206 is subject to a high-class soils mapped area;
 - a critical electricity infrastructure corridor mapped area sits over part of RS206a; and

¹¹ Variation 2 Out of Scope Decision Report, 31 May 2021. Paragraph 59. [Variation-2-Out-of-Scope-Decision-Report-31-May-2021.pdf \(dunedin.govt.nz\)](https://www.dunedin.govt.nz/variation-2-out-of-scope-decision-report-31-may-2021.pdf)

- the Lindsay Creek esplanade reserve mapped area and a Hazard 2 (flood) Overlay Zone runs along the southern boundary of RS77 and RS206a.
1153. Mr Morrissey noted that the combined site has an estimated feasible capacity of 240 dwellings under the proposed rezoning. Part of the site is subject to an appeal (ENV-2018-CHC-222) in relation to residential zoning and this is currently on hold pending the outcome of Variation 2.
1154. In the section 32 report, two areas were assessed: 43 Watts Road (RS206) and part of 309 North Road (RS77). RS206 was recorded as a rejected site as a large part of it was identified as SNL and it was considered inappropriate for residential development due to the significance of the landscape values. The site was also rejected as it was considered that development would exacerbate downstream wastewater overflows. For RS77, the site was originally rejected as development would exacerbate downstream wastewater overflows and the site is also very steep which would make it difficult to achieve a standard density of development.
1155. We note that the different areas of the site have been described differently in various submissions and in evidence. We use the terminology in the section 42A report and if further clarity is sought we direct readers to the map on page 326 of the section 42A report which shows these various areas.

2.3.11.7.1 *Submissions received*

1156. *Fletcher Glass (S123.001, S123.002, S123.003, S123.004)* submitted to rezone the site to a mix of residential zones. A further submission from *Mr Glass* provided clarity on the exact areas and zoning being sought.
1157. We note that two of these submission points from *Mr Glass*, S123.001 and S123.003, were covered in our decision on scope¹², and both the extensions to these sites were considered within scope.
1158. Further submissions from *Mary Carney (FS166.1, FS166.2, FS166.3)*, *The Glass Gallery Limited (FS237.1, FS237.2, FS237.3)*, *Claire Cross (Open Valley Urban Ecosanctuary (VUE) (FS55.1, FS55.4)*, *Otago Regional Council (FS184.14)*, and *Wendy and Steve Trip (FS250.1)* opposed the rezoning. Concerns raised by the further submitters included impacts to the SNL, loss of rural land, loss of the green corridor, hazards, stormwater management, inadequate road access, impacts to biodiversity, loss of amenity and recreational space and loss of high class soils.
1159. None of the further submitters spoke at the hearing.

2.3.11.7.2 *Submitters' response to the section 42A report*

1160. At the hearing, Mr Phil Page, counsel for Mr Glass, provided a legal submission and outlined a revised proposal. Most notably, he proposed that part of the site (RS206a) consisting of the worked 'face' of the former quarry be zoned Recreation rather than Residential.
1161. Mr Conrad Anderson, consulting planner for Mr Glass, spoke at the hearing and noted that while the majority of the site is zoned rural, it does not have any rural productivity purposes

¹² Variation 2 Out of Scope Decision Report, 31 May 2021. Paragraph 66 – 68. [Variation-2-Out-of-Scope-Decision-Report-31-May-2021.pdf \(dunedin.govt.nz\)](https://www.dunedin.govt.nz/variation-2-out-of-scope-decision-report-31-may-2021.pdf)

and the landowner is unable to utilise the site under that zoning. Our consideration of arguments about lack of acceptable economic gain from rural land are addressed in section 2.1.5.

2.3.11.7.3 Landscape and rural character

- 1162. An SNL covers an area (part of RS206) that is proposed to be rezoned Large Lot Residential.
- 1163. Mr Tony Milne, Landscape Architect for Mr Glass, provided a masterplan for the proposed development, and provided his assessment of the proposal. His conclusion with regards to the area proposed for Large Lot Residential (RS206) that is covered by the SNL overlay is that the proposed development would maintain the landscape values of Mt Cargill's SNL. With respect to the wider rezoning, Mr Milne considered that the changes to the landscape attributes that would result from future development within the site would have little impact on the landscape values of Mt Cargill. He considered that these changes may, at most, result in a slight loss to the overall rural character and the amenity it affords, however development would not be discordant with the existing and anticipated development patterns within the north-western side of the North East Valley.
- 1164. Mr Page highlighted that there is no request to remove the SNL from the site, as the presence of the SNL in the proposed Large Lot Residential zoning will ensure that the design controls in the 2GP continue to apply. He outlined that, based on the evidence of Mr Milne, the landscape values in this area can be maintained through structure plan provisions that require additional vegetation screening planting, minimising accessways, and implementing controls on built form. Overall Mr Page submitted that rezoning to Large Lot Residential with a structure plan provides for maintenance of the identified SNL values.
- 1165. This view was not supported by Mr McKinlay, DCC Landscape Architect. In his opinion, residential development within the area of SNL (RS206) is inappropriate as the site is an important component of the wider rural setting and contributes significantly to the visual amenity of the surrounding area. Development would contrast with the largely natural character of this uppermost part of the site and nearby hillslopes.
- 1166. In terms of the development proposed for the lower parts of RS206a, Mr McKinlay acknowledged that residential zoning in this area would have less effect on visual amenity and rural character values than higher parts of the site, however planting would be required. Regarding Area E (RS77), he considered that rezoning would lead to an erosion of the natural and rural character values from these slopes.

2.3.11.7.4 On-site residential amenity

- 1167. Mr McKinlay noted concern about the ability of houses in RS77 (Area E) to receive appropriate levels of sunlight.
- 1168. This issue was discussed as relevant to Policy 2.6.2.3.d (which outlines criteria relevant for medium density zoning), noting some of the site is proposed for General Residential 2 zoning (RS206a, RS77). Mr Milne's evidence for RS77 referred to the Auckland Design Manual recommendation that "at least 70% of living rooms and private outdoor spaces in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid-winter". The shading diagrams attached to his evidence show that much of RS77 will receive little to no sun during the day between 21 May and 21 July. Mr McKinlay

concurred with the assessment reached by Mr Milne, that there would be extensive shading issues due to south-west orientation in this area.

2.3.11.7.5 Hazards

1169. The site was assessed by Stantec as having a high level hazard based on slope instability. The assessment noted that whilst some of the site is within typical stability limits (for example, there is a small flat area on RS206/43 Watts Road), the majority of the land has significant areas of potential instability.
1170. In his evidence, Mr Anderson noted that matters relating to hazards are regularly managed via the 2GP, as evidenced by SUB-2019-138/LUC-2019-578 which relates to a 14-lot subdivision of the residential area adjacent to Watts Road. Mr Anderson considered that limited, if any, weight should be placed on the risk of natural hazards, and that these can be managed at the resource consent stage.
1171. Mr Morrissey disagreed with Mr Anderson and emphasised in his reply that the site had been assessed by Stantec as having high level hazards, with the majority of the land having significant areas of possible instability. He noted no expert information was provided by the submitter in relation to natural hazards. He advised that Policy 2.6.2.1.d.viii states “*the potential risk from natural hazards, and from the potential effects of climate change on natural hazards, is no more than low, in the short to long term (Objective 11.2.1)*” and, in the absence of any submitter information to the contrary, he considered rezoning would have a fundamental conflict with this Policy.

2.3.11.7.6 Stormwater and flood hazard risk

1172. DCC 3 Waters provided an assessment of the site as part of the section 42A report. They advised that Lindsay Creek is downstream of the site and any increase in the peak flow of stormwater run-off from the site could potentially have a negative impact on the ORC’s level of service for flood protection associated with the Water of Leith. Stormwater attenuation would be necessary, however DCC 3 Waters expressed concerns about the affordability of this infrastructure. DCC did not support rezoning of the site for this and other reasons.
1173. Mr Kurt Bowen, consulting surveyor for *Mr Glass*, provided a response to the various 3 waters issues raised in the section 42A report. Mr Bowen agreed that stormwater attenuation would be necessary and proposed that, for the sites created within RS206 and the northern part of RS206a, the most suitable method of detention would likely be individual on-site storage tanks. For the sites in RS77 and part of RS206a, he advised that the most suitable method of stormwater detention would likely be one or possibly two community stormwater ponds. Mr Bowen supported application of a new development mapped area to manage stormwater, and overall considered that there are available methods and resources to ensure appropriate stormwater management across the site.
1174. In their response, Mr Oliver and Mr Saunders from DCC 3 Waters raised concerns about the use of individual on-site storage tanks, and noted these cannot be relied on for long-term performance and the potential impact on stormwater flows can be significant. They also raised a concern about the location of the proposed stormwater detention ponds and if these would be located below the level of Lindsay Creek. They noted that, provided the new development mapped area requirements are applied, the site may be considered developable, however they continue to have concerns about the affordability of the required stormwater infrastructure and are overall not supportive of rezoning.

2.3.11.7.7 *Water supply*

- 1175. For potable water supply, DCC 3 Waters advised a minor network extension would be required, but with significant upstream upgrades.
- 1176. Regarding potable water supply, Mr Bowen noted nearby connection points to the existing network and outlined that this area is considered to have “high” water pressure. He anticipated there are likely solutions available to overcome the upstream upgrades required.
- 1177. In their response, Mr Oliver and Mr Saunders agreed with Mr Bowen’s comments regarding the existing infrastructure, and his interpretation that there are solutions available for the significant upstream upgrades required.

2.3.11.7.8 *Wastewater*

- 1178. DCC 3 Waters advised that in the wastewater network immediately downstream of the site wastewater enters a constrained area and there are existing wastewater overflows in wet weather. DCC 3 Waters advised that additional flows would exacerbate this problem, and a medium – long term timeframe is anticipated to resolve these issues, therefore rezoning of the site was not supported.
- 1179. Mr Bowen agreed that wastewater detention may be required in order to avoid exacerbating downstream wastewater issues. He noted that sites within R206 (proposed Large Lot Residential zone) would have on-site wastewater disposal. For sites within the northern part of RS206a, he did not consider that the addition of 12 new sites would have a noticeable effect on the downstream wastewater network. However, if this were of a concern to DCC, he said an alternative solution would be to pump wastewater into a communal facility. Mr Bowen then outlined a proposal for a large community detention tank to service the remainder of the site, with a telemetry link to the Musselburgh Pumping Station. While he acknowledged the high cost of the detention tank, he considered this affordable when spread over the likely number of sites.
- 1180. In their response, Mr Oliver and Mr Saunders continued to raise concerns about the proposed wastewater servicing. They disagreed with Mr Bowen’s statement that 12 new sites would not have a noticeable effect on the downstream wastewater network. They considered that any additional flows would exacerbate the existing problems, and also advised that they do not support individual pump systems. In commenting on the submitter’s proposal for a communal wastewater detention tank they advised that such systems are more expensive to build and operative compared to gravity sewer networks, and such an approach is generally only supported when there is a strong need for additional zoned land to provide development capacity.

2.3.11.7.9 *Funding of infrastructure upgrades required*

- 1181. Mr Phil Page, counsel for Mr Glass, responded to the concerns raised in the section 42A report about the feasibility of providing appropriate infrastructure. Mr Page submitted that the viability of funding infrastructure requirements is a business decision for the developer, and not a basis to refrain from rezoning the site.
- 1182. Mr Michael Garbett, Legal Counsel for DCC, provided a legal submission responding to this matter. Mr Garbett considered that the potential long-term cost to the public of public infrastructure is clearly a relevant matter for consideration at the time of making decisions with respect to any rezoning of land.

2.3.11.7.10 DCC 3 Waters response to evidence at hearing

1183. In their response to submitter evidence, Mr Oliver and Mr Saunders confirmed that their initial comments stand and rezoning is not able to be supported from a 3 Waters perspective. The primary reasons for this are wastewater issues (existing wastewater overflows occurring and communal onsite wastewater detention may be challenging) and stormwater management issues (concern over the number of individual on-site stormwater tanks proposed plus the potential impacts on Lindsay Creek). Further detail was also provided on the nature of the upstream potable water upgrades that are required for this area.

2.3.11.7.11 Transport

1184. The site will be accessed from Watts Road, for a small number of sites (Mr Bowen estimates a maximum of 22 additional dwellings), with the majority of the areas proposed to be accessed from North Road, via a bridge over Lindsay Creek. Mr Bowen provided an assessment of the appropriateness of Watts Road to service the additional traffic from the proposed development and considered that upgrades are required but are feasible. These include construction of a footpath on the south side of Watts Road.
1185. Regarding access from North Road, Mr Bowen understood that the submitter has an existing agreement with the ORC that requires the construction of a new bridge in exchange for taking ownership of a portion of land along the banks of Lindsay Creek. He noted the possibilities of providing a secondary access point to the subdivision. The first option considered was construction of an additional bridge over the Lindsay Creek to North Road, and the second option is to provide an emergency access connection through the site to Watts Road. He noted this would need to be restricted to use by emergency vehicles only (to avoid compromising Watts Road), but is likely to be manageable. Overall, he considered that the costs of meeting key transportation outcomes, while not insignificant, would be feasible due to the large-scale nature of the development opportunity that the requested rezoning would provide.
1186. In his response to submitter evidence, Mr Watson of DCC Transport noted that the information provided by the submitter is helpful to demonstrate that there are potential solutions to resolve identified transport issues. However, Mr Watson considered that an Integrated Transport Assessment should be provided prior to rezoning. This would need to demonstrate the ability to provide for an additional site access to the main part of the site, potentially via a second bridge. It would also need to demonstrate the mechanisms for delivering the various infrastructure improvements which would be delivered at the time of subdivision.

2.3.11.7.12 Biodiversity

1187. Mr Morrissey outlined in the section 42A report that, despite efforts having been made, access to the site was not able to be secured in time to conduct a full on-site biodiversity assessment. Therefore observations of biodiversity were undertaken, by Wildland Consultants, from public roads adjacent to the property. In his report for Wildlands, Mr Kelvin Lloyd noted that, given the lack of access, it was difficult to assess whether the area is ecologically significant. Some areas of vegetation around the perimeter appear to be indigenous-dominant and contain a reasonable diversity of species, but this may not be reflective of the vegetation across the site. It is possible that the sites may meet the 2GP ecological significance criteria in regards to ecological context. He considered that some

Large Lot Residential zoning may be acceptable but this is uncertain in the absence of a detailed assessment.

1188. General comments were also provided by Mr Lloyd regarding the North East Valley, and these highlighted concerns regarding fragmentation of existing indigenous vegetation, increase in predation by pets such as cats, and adverse effects through increased runoff on the stream system, in this case Lindsay Creek. We have discussed these broader topics in section 2.1.7 above.
1189. In his evidence, Mr Anderson noted that there are no biodiversity related overlays on the site, and he therefore considered that concerns around significant indigenous biodiversity have limited relevance. In terms of non-significant indigenous biodiversity, he noted that the 2GP provides guidance on areas of importance (around waterways, wetlands etc) while providing for the removal of some biodiversity as a permitted activity.
1190. Mr Milne, in Appendix 2 of his landscape assessment, provided information regarding the vegetation present on the site. He noted that there is extensive vegetation present, consisting of predominantly exotic with some areas of regenerating native species. Much of the site has remnants of the original indigenous vegetation which would have consisted of mainly podocarp forest in the form of Matai, Totara and Rimu, with Mahoe, Lacebark and some Miro on coastal hills, while vegetation within the mid-altitudes consisted of Mahoe and Broadleaf, with Kaikawaka, Hall's Totara. Mr Milne also identified a number of design principles and design strategies regarding the management of vegetation on the site.
1191. In his legal submission, Mr Page also discussed indigenous biodiversity and commented that the existing Rural Zone provisions are not a tool to protect vegetation and biodiversity values and do not impart significant existing protection.
1192. In her Reply, Ms Christmas disagreed with Mr Page's statement and commented that rural zones not only have a purpose related to biodiversity, but they also have rules specific to managing indigenous vegetation clearance within them (albeit not as strictly as the rules that apply to an Area of Significant Biodiversity Value). She outlined the various rules in the Plan that restrict indigenous vegetation clearance in rural zoned land.

2.3.11.7.13 Other issues

1193. Concerns were also raised by further submitters in relation to loss of the area for amenity and recreational uses, and loss of high class soils.
1194. Mr Morrissey noted that, while the area is currently open to the general public for recreational uses, the land is privately owned, and the landowner has a right to prevent public access regardless of the underlying zoning. He acknowledged there is a small area of high class soils over 43 Watts Road, but commented that due to its small size and relatively inaccessible location, the overall rural productivity potential of the site is likely low.

2.3.11.7.14 Reporting Officer's recommendation

1195. Mr Morrissey's recommendation was to reject the submissions seeking rezoning and that there should be no rezoning of any part of the site. He advised that zoning would conflict with several aspects of Policy 2.6.2.1, including rezoning the SNL to residential, impacts on rural character and visual amenity, the high hazard risk, impact on the wastewater network, unresolved issues with water supply, issues with stormwater disposal and uncertainty about the indigenous biodiversity values that may be present within the area that may require

protection. He also provided comment that rezoning RS77 to General Residential 2 would appear inconsistent with Policy 2.6.2.3, which identifies access to reasonable levels of sunlight as a relevant zoning consideration.

2.3.11.7.15 Decision and reasons

1196. We reject the submission from *Fletcher Glass (S123.001, S123.002, S123.003, S123.004)* seeking to rezone the site.
1197. We adopt the evidence of Mr McKinlay that residential zoning within the SNL will not appropriately protect its landscape values. This is consistent with our general approach to residential development in SNLs, outlined in section 2.1.3. We acknowledge that Mr Milne's evidence provided details of how the adverse effects on landscape values might be able to be managed through built form and vegetation planting. However, overall we prefer Mr McKinlay's evidence that development at Large Lot Residential density is incompatible with the SNL overlay and would contrast with the largely natural character of this uppermost part of the site and nearby hillslopes.
1198. In relation RS77, we accept Mr McKinlay's evidence that residential zoning will impact on the natural character and visual amenity, albeit to a lesser extent than for RS206. This area is currently heavily bushed. Mr Milne also noted in his evidence that future development provided for by General Residential 2 zoning (if rezoned) would impact the landscape attributes and in particular the sensory landscape values at this location. We are also concerned that Mr Milne's evidence shows a relatively high degree of shading that the proposed development in this area will experience during winter, and he confirmed this in answer to a question from us. Mr Morrissey's evidence is that this was inconsistent with Policy 2.6.2.3, which identifies reasonable levels of sunlight as a relevant zoning consideration. We agree.
1199. We adopt the evidence from Stantec which concludes that the entire site has a high level of natural hazard relating to slope instability. No evidence was received from *Mr Glass* to counter this and, in the absence of any contrary evidence, we do not consider rezoning a site with high level hazards for residential use is appropriate and is not consistent with Policy 2.6.2.1.d.viii. We note that this is consistent with our decisions on other sites where the uncontested evidence is there are high level natural hazards.
1200. We agree with the evidence of Mr Watson that additional information and assessment would be required in relation to transport links and the feasibility of these before any rezoning occurs. This is due to the concerns raised by Mr Watson about the ability to provide for a second bridge for site access and mechanisms for the various transportation improvements to be delivered at the time of subdivision. Mr Bowen acknowledged that further work would be needed to determine an appropriate second access from North Road, but this work had not yet been done. Consequently, we consider it would be inappropriate to rezone Area E. We also consider that there is not sufficient detailed evidence provided regarding the feasibility of conducting the upgrades to Watts Road. We note Mr Page's comments that the affordability of infrastructure upgrades are a matter for the developer rather than issues relevant for rezoning. However, access to a large site proposed for rezoning in our view is a fundamental consideration at the time of rezoning, and we must be reasonably confident that new access and upgrades to the network are all possible, practical, viable, and able to be properly assessed in order for rezoning to comply with Policy 2.6.2.1.b. We are not confident that this is the case.

1201. We adopt the evidence of Mr Oliver and Mr Saunders regarding 3 waters servicing. We agree with their position that rezoning to a General Residential 1 or 2 density is not acceptable due to concerns about wastewater servicing and stormwater disposal. We also note that significant upstream upgrades will be required with respect to potable water supply. We do not consider that sufficient evidence has been provided by the submitter to demonstrate that stormwater management is feasible for the site. We note that whilst communal wastewater management proposed by the submitter may be feasible, Mr Oliver and Mr Saunders' evidence was that such systems are more expensive to build and operate than gravity sewer networks and we agree with their view that such an approach should only proceed if there is a strong need for development in this area and wider city.
1202. As we have previously discussed in relation to Mr Stocker's evidence, we are of the view that there is generally sufficient development capacity provided. Therefore rezoning sites with significant issues or infrastructure requirements that have yet to be resolved is not consistent with the purpose of Variation 2.
1203. We note Ms Christmas' evidence regarding the purpose of rural zoning with respect to indigenous biodiversity protection. We agree that, without a formal biodiversity assessment of the site, a precautionary approach is appropriate with respect to protecting indigenous biodiversity values.
1204. Overall, we acknowledge the submitter has called on a substantial amount of expertise, evidence, and legal submissions to support the rezoning of this land. However, based on the evidence called by DCC, we are not satisfied that several key considerations in the policy framework for rezoning sites are able to be met. In the context of Variation 2, and its purpose for rezoning land in 'easy wins' situations to meet an identified shortfall in development capacity, we do not consider that rezoning any of this land, to residential, as requested, is appropriate or consistent with Policy 2.6.2.1.

2.3.12 Outram

2.3.12.1 85 Formby Street, Outram (RS175), and 91 and 103 Formby Street, Outram (RS154)

1205. This section addresses the submissions covered in section 5.4.15 of the section 42A report.
1206. RS175 and RS154 are located in Outram, on the edge of the Taieri Plain. They have a combined area of approximately 10ha and are zoned Rural Taieri Plain. They are located adjacent to land in the Township and Settlement Zone. The 2GP map shows a number of overlays are present, including a high class soils mapped area, and a Hazard 2 (flood) Overlay Zone. A small part of 85 Formby Street is subject to a swale mapped area. There is a critical electricity infrastructure corridor mapped area on the southern boundary of the site.
1207. Mr Morrissey noted that the sites are distant from the nearest town centre. The nearest principal centre (Mosgiel) with a broad range of services is located approximately 12km away. We note that it is relatively close (less than a kilometre) from the Outram rural centre, which has some limited services including a tavern, café and superette.
1208. In the section 32 report, the sites were originally rejected due to high-class soil and potential flooding issues. In addition, the report noted that Outram township does not have a shortage of residential capacity and there is no immediate need for rezoning.

2.3.12.1.1 Submissions received

1209. *CC Otago Limited (S308.001 and S308.002), Outram Developments Limited (S305.002 and S305.001) and Peter Doherty (S307.003 and S307.001)* all sought to rezone RS175 and RS154 to Township and Settlement and apply a structure plan mapped area to the sites, rather than a new development mapped area. Two proposed draft structure plans were provided with the submissions. Structure plan 1 provides for 71 'standard' 1,000m² sites, and structure plan 2 provides for 133 sites, with some smaller sites between 240m² and 300m² in area, and a significant number around 500-600m².
1210. *Paul Thomson (FS192), Roger Nicolson (FS208), Shirley Bush (FS222), Craig Bates (FS58), Donna Tisdall (FS83), and Danielle Atkinson (FS63)* all supported the proposed rezoning.
1211. *Mr Peter Doherty*, owner of 91 Formby Street, appeared at the hearing in support of his submission to rezone the site. He discussed the positive attributes of Outram and his overall vision for the site. He noted that development in Outram over the past 10 years had resulted in an increase in economic activity and recreational opportunities.
1212. Mr Tim O'Sullivan also appeared at the hearing on behalf of *CC Otago Limited, Outram Developments Limited and Peter Doherty*. He outlined the overall vision for the site was for a high quality development with significant outside space providing high quality amenity for residents. He considered that Outram needed a wider range of housing solutions.
1213. Also at the hearing representing *CC Otago Limited, Outram Developments Limited and Peter Doherty* were Ms Emma Peters (Consulting Planner), Mr Mike Moore (Landscape Architect), Mr Derek McLachlan (Legal Counsel), Mr Andy Carr (Traffic Engineer), Mr Craig Bates (Real Estate Agent), and Mr Philip Osborne (Economic Consultant).
1214. A large number of further submitters opposed the rezoning for a wide range of reasons. These included traffic safety, lack of public transport, increased reliance on private car use, loss of rural character, stormwater and wastewater management, flooding risk, general impacts on amenity (increases in pollution and smog), distance from centres, Outram's limited infrastructure and facilities, no need for further residential capacity in Outram, and loss of high class soils and highly productive land.
1215. *Mr Trevor Braid, Ms Margaret Henry, Mr Christopher Girling, and Ms Susan Broad* all attended the hearing and spoke to their further submissions. Their evidence is discussed in relation to the topics outlined below.

2.3.12.1.2 Landscape, green space and biodiversity

1216. Several further submitters opposed rezoning due to concerns that development would lead to a loss of rural character in the area.
1217. Mr Moore presented expert landscape evidence on behalf of *Outram Developments Ltd, Peter Doherty, and CC Otago Ltd*. He considered that while the site currently has an open rural character, it has no landscape values of particular significance. He acknowledged that expansion of the settlement would necessarily reduce the compact township attributes and fundamentally change the rural character of the site. He considered that if the site is developed, the proposed structure plans could be amended to be more sensitive to the lineal, grid pattern form and character of both urban Outram and its rural setting, and design controls to ensure a high level of suburban amenity. However, overall he concluded that the landscape effects of the proposed rezoning would be minor adverse in terms of their nature

and degree, assuming sensitive structure plans were developed. He considered that the zoning change would be generally consistent with the relevant statutory provisions for assessing effects on landscape.

1218. In response, DCC Landscape Architect Mr McKinlay generally agreed with Mr Moore that there are no landscape features or characteristics of recognised landscape significance associated with these sites, and that this is reflected by the fact that there are no 2GP landscape overlays relevant to this site
1219. Mr McKinlay also noted that there is an ox-bow stream meander that borders the site to the north. He considered that if rezoning were to proceed, protection and enhancement of the riparian edge of this stream should occur to maintain the natural character values of this waterway. He also noted there would be adverse visual amenity effects from neighbouring residential properties associated with the loss of rural outlook. Overall, Mr McKinlay considered that if rezoning were to occur the proposed lower density plan (structure plan 1) would integrate more successfully with the existing development in Outram, and the inclusion of reserve and street plantings would help to ensure that a higher level of urban amenity is achieved.

2.3.12.1.3 *Transportation*

1220. Several further submitters raised concerns regarding transportation matters, including safety concerns in relation to access off Huntly Road, lack of public transport resulting in the need to use private cars, and concerns regarding traffic increases and implications for traffic safety.
1221. *Ms Susan Broad* spoke at the hearing and further outlined her concerns regarding traffic safety, with anticipated heavier traffic use on Formby Street and concerns about the feasibility of the proposed footpath.
1222. DCC Transport provided an initial assessment of the site. They considered that an Integrated Transport Assessment (ITA) would need to be undertaken to ensure all transport effects are adequately evaluated and suitable mitigation / design measures implemented to manage any adverse effects. The Huntly Road / Formby Street intersection would need to be reviewed in light of additional traffic volumes generated from development and speed limits would need to be reduced. Footpaths would need to be provided by the developer and street lighting may also need to be upgraded.
1223. DCC Transport's assessment was that overall it did not support rezoning on the basis that the site is distant from the city centre and there are no public transport options.
1224. In his evidence for *CC Otago Limited, Peter Doherty and Outram Developments Limited*, Mr Carr provided a transportation assessment and considered that the traffic generated by rezoning the site could be accommodated on the adjacent roading network. He considered that traffic flows will remain sufficiently low such that no formal assessments of adjacent intersections are warranted, and rather, all existing intersections will operate under 'free flow' conditions. In his view, the crash history in the vicinity of the site did not indicate that there would be any adverse safety effects from the requested rezoning.
1225. Mr Carr considered that there are existing deficiencies on Formby Street and Huntly Road and rezoning provided an opportunity to improve the roading network, and his evidence

included details of improvements that could be undertaken. Overall, he considered that the requested rezoning could be supported from a traffic and transportation perspective.

1226. In his response, Mr Watson of DCC Transport agreed that Mr Carr's assessment covered the majority of the issues that would need to be addressed as part of an ITA at the time of subdivision. Mr Watson also agreed that the increase in traffic flow would not have any noticeable effect on the wider transport network. However, he said that DCC Transport retained its position that they are not supportive of either of these proposed sites for rezoning due to the lack of sustainable transport options.

2.3.12.1.4 3 waters

1227. A large number of further submissions raised concerns relating to 3 waters issues, most notably stormwater run-off and surface water build up leading to an increased risk of flooding, and the potential for groundwater contamination due to on-site wastewater disposal.

Potable water supply

1228. DCC 3 Waters advised that the potable water supply would need to be upgraded to service the site. The water supply is constrained during peak summer demand periods, with no spare capacity available at these times. There are medium to long term timeframes to resolve these constraints.
1229. In their response, Mr Oliver and Mr Saunders noted no submitter evidence was provided to address their concerns regarding issues with potable water supply.

Wastewater

1230. At the hearing, *Mr Trevor Braid, Ms Margaret Henry, Mr Christopher Girling, and Ms Susan Broad* all spoke to their concerns regarding 3 waters. Their concerns in relation to wastewater included the lack of wastewater reticulation, use of septic tanks, potential for groundwater contamination, and lack of suitable infrastructure.
1231. Mr Morrissey advised that Outram is currently self-serviced for wastewater, generally through individual septic tanks. He advised that DCC 3 Waters had reviewed the proposed rezoning and had commented that self-servicing for wastewater is considered feasible, pending soil investigations. DCC 3 Waters noted that consent to discharge treated wastewater would be required from the Otago Regional Council.
1232. Mr Craig Horne noted during the hearing that structure plan 1 (1,000m² sites) would have individual on-site wastewater systems. Structure plan 2 would have a communal wastewater system that could either disperse treated wastewater off-site, or pump it to Allanton.
1233. In response to questions from us during the hearing, Mr Oliver advised that there is currently no defined point or population at which a reticulated wastewater network for Outram would be implemented and costs for doing so are not known at present.
1234. Mr Oliver and Mr Saunders noted in their response that the option to pump wastewater to Allanton would require pumping all of Outram's wastewater, not just the rezoning site. It is not currently known if there is sufficient capacity, and significantly more investigation is required. They did not consider that the proposal to pump wastewater from just this site to Allanton could be considered "good-quality" infrastructure, and continued to not support

rezoning the site. They also noted that there was no mention in any of the submitters' evidence about any contact having been made with the Otago Regional Council regarding wastewater, nor any soil investigations regarding the feasibility of self-servicing.

Stormwater and flooding hazard

1235. At the hearing, *Mr Trevor Braid, Ms Margaret Henry, Mr Christopher Girling, and Ms Susan Broad* spoke to their concerns about how stormwater attenuation would work at the site, lack of suitable infrastructure, and the potential flooding risk. Several of the further submitters raised concerns that climate change would further increase the flooding hazard. *Mr Braid* said he is the landowner most directly affected by stormwater outflows, as his property is located across the road from the site.
1236. Mr Morrissey noted that the site is located within a Hazard 2 (flood) overlay zone.
1237. In the section 42A report Mr Paterson considered that the sites could be assigned as having either a 'low' or a 'medium' risk category, despite the Hazard 2 (flood) Overlay, as the land appears to be able to be developed as long as flood protection works are undertaken. Mr Paterson noted that minimum floor levels would be required for any subdivision within the proposed area. A stormwater assessment may be required, and this could necessitate additional floor level requirements, flood banks or stormwater detention.
1238. In relation to stormwater, DCC 3 Waters noted in the section 42A report that stormwater drainage in Outram is complex and constrained. Due to the position of the Taieri flood protection bank there is no natural outlet to the coast, and so Outram's stormwater drains to the ox-bow lake at the southern end of Outram, just to the east of the proposed site. From here it infiltrates into the ground. The infiltration capacity of the ox-bow lake is unknown, but it has flooded previously.
1239. The proposed rezoning site is flat and there is no obvious natural flow path for stormwater other than the channel to the north of the site, which is part of the 'ox-bow'. Stormwater would need to be detained on site to ensure the peak run-off does not exceed pre-development flows. DCC 3 Waters estimated that the land required on site for stormwater management would be over 30% of the total area of the site, which they did not consider feasible.
1240. In evidence for *CC Otago Limited, Peter Doherty and Outram Developments Limited*, Ms Peters noted that stormwater would be detained from roof surfaces to storage tanks for release either to a sump or to other attenuation within the site. She anticipated that the attenuation would be on site, in the form of ponds and/or swales and/or tanks. She anticipated that performance standards attached to the structure plan would require a stormwater management plan and a flooding risk assessment to be provided at the time of subdivision. Modelling of the capacity of the open channel and 'ox-bow' lake could be investigated, if required, as part of formulating that stormwater management plan.
1241. Mr Horne, a consultant surveyor for *CC Otago Limited, Outram Developments Limited and Peter Doherty*, noted that the structure plans allocate areas for stormwater attenuation and his preliminary attenuation calculations showed that the area required for stormwater attenuation could be achieved within the site.
1242. In their response, Mr Oliver and Mr Saunders noted the structure plan does not indicate any form of stormwater detention or its location. Regarding the submitters' evidence for

stormwater attenuation, they commented that the annual exceedance probability (AEP) used appears to be insufficient to meet the requirements of the 2GP. They also reiterated their concerns about the possibility of stormwater disposal by drainage to ground, due to the unknown soil infiltration capacity of the site or the disposal capacity of the ox-bow lake. Overall, they did not consider that the stormwater management proposed will meet the 2GP requirements, and they considered stormwater servicing for the site as being unfeasible due to the large area of land required and the associated cost for stormwater infrastructure.

1243. Mr Payan, Manager Natural Hazards at the Otago Regional Council, also appeared at the hearing at the request of the DCC and outlined the flood hazards affecting the broad Taieri Plain area. He provided information on the flood hazard mapping approach taken by the Otago Regional Council, the different flood hazard areas present on the Taieri Plain and discussed the potential impacts of climate change on extreme weather events. While his evidence covered the broader Taieri Plain and was not specific to this site, it provided information relating to the broad flooding hazards present in Outram.

2.3.12.1.5 Compact city and lack of sustainable transport options

1244. Several further submitters highlighted the considerable distance from these sites to established centres and services, and argued that Outram is not suitable for further development because of that separation.
1245. In the section 42A report, Mr Morrissey noted that the site is significantly distant from the larger centres of Mosgiel and Dunedin, where many residents are likely to commute for high school and work. He considered that significant growth in Outram would not support the compact and accessible city objective (Objective 2.2.4), and rezoning the sites would conflict with Policy 2.6.2.1.c, as it is located relatively distant to main urban areas or townships that have a shortage of capacity, notwithstanding that Outram does have a Rural Centre. He noted that the site ranked poorly in relation to likely carbon emissions derived from commuting.
1246. Mr Philip Osborne (Property Economics) appeared at the hearing via Zoom and presented evidence for *CC Otago Limited, Outram Developments Limited and Peter Doherty*. He considered that the travel data provided in the section 42A report on commuting to Dunedin is likely to be overstated for Outram. In his view, Outram serves as a retirement community for the Taieri Plains and other local rural settlements, and therefore a smaller portion of residents commute to the city for work.
1247. In a subsequent statement Ms Peters presented evidence collected by Mr Horne and Mr Docherty (collected through visiting residents of Maungatua Views) that indicates that for the 34% of residents currently living in the nearby Maungatua Views subdivision that currently commute for work purposes actually travel to Dunedin. He considered this highlighted the need for properties outside of Dunedin within the outlying Rural Centres, and that it cast doubt as to the validity of applying the Momona statistical data used in the carbon emissions analysis contained within the section 42A report.

2.3.12.1.6 Need for additional housing capacity in Outram

1248. Mr Christopher Girling spoke at the hearing and said he considered there is sufficient residential capacity in Outram. Ms Susan Broad also made a similar point, and considered the proposal would in itself represent a significant increase in the population of Outram.

1249. In her evidence, Ms Peters disagreed with the statement in the section 42A report that: “Outram township does not have a shortage of residential capacity and there is no immediate need for rezoning”. She said it was her opinion there is a clear demand for more residential zoned land to be made available to the market in Outram. Ms Peters noted that Outram may technically have some zoned capacity within the existing Township and Settlement zoned area, but if property owners are not prepared to sell their land then that capacity is not available to the market, as appears to be the case in Outram.
1250. Ms Peters also considered that the 2GP rule requiring a heritage assessment of pre-1940’s building prior to demolition would reduce available capacity. However, Mr Morrissey clarified in his Reply that this rule does not apply in Outram and so would have no effect on housing capacity in this area. We also note this rule has since been removed by the Court in response to an appeal
1251. Mr Bates, a local real estate agent, appeared for *CC Otago Limited, Outram Developments Limited and Peter Doherty*. He considered that in his experience there is strong demand for residential properties in the area.
1252. Mr Horne discussed recent developments he had been involved in or was aware of in Outram and considered that there is demand for residential housing capacity in Outram as some property owners are not willing to develop their land.
1253. Legal submissions were provided by Mr McLachlan, legal counsel for *CC Otago Limited, Outram Developments Limited and Peter Doherty*, and Mr Philip Osborne, of Property Economics, provided evidence in relation to the conclusions of the housing capacity assessment. Ms Peters and Mr McLachlan also discussed the interpretation of Objectives 2.6.2 and 2.2.4 in relation to resilient townships.
1254. We note here that these matters have been addressed in some detail earlier in this report, specifically section 2.1.1 which discusses the relationship between the NPS-UD and Variation 2 (and includes discussion on the accuracy and appropriateness of applying the housing capacity assessment to our rezoning considerations), section 2.1.2.3 which discusses what factors make a compact city, and section 2.1.2.4 which discusses consideration of resilient townships.
1255. In summary, we accepted Mr Stocker’s evidence regarding the appropriateness and accuracy of the housing capacity assessment, and we agree with the evidence of Ms Christmas that the FDS process, rather than Variation 2, is the most appropriate means to determine whether additional housing or business land capacity is needed to maintain or improve resilience.

2.3.12.1.7 Rural productivity

1256. Ms Margaret Henry, Mr Christopher Girling, and Ms Susan Broad all spoke to their concerns at the loss of highly productive land due to development, and how this could impact local food production potential.
1257. We were advised in the section 42A report that the site is classed as Land Use Capability Class (LUC) 1 and is also affected by a high class soils mapped area in the 2GP, indicating high potential for primary productivity.
1258. Ms Peters, relying on the evidence of Mr Horne, stated that the site represents approximately 2% of the high class soils around Outram, and an even lower percentage of

the LUC 1 land available on the Taieri Plain. She considered Policy 2.6.2.1.d.ii is met, given the relatively small size of the site and the overall low relative loss of this soil.

1259. We note that part way through our deliberations the National Policy Statement for Highly Productive Land (NPS-HPL) was released and came into effect. Mr Morrissey, in his response to Minutes 17 from the Panel, advised that 98% of RS175 and 93% of RS154 (since corrected to 96%) meets the interim criteria for highly productive land (HPL).
1260. Due to the timing of the NPS-HPL, and for the sake of clarity, we have chosen to undertake an analysis of the NPS as a separate part of our decision and to focus on whether the consideration of it changes any of our conclusions and decisions. This analysis is given in section 3 of this decision. We note that the analysis in that section has not materially changed our overall decision on the rezoning of this site but does elevate this matter as an additional reason for rejecting the request for rezoning.

2.3.12.1.8 Reporting Officer's recommendation

1261. Mr Morrissey recommended that the submissions seeking the site be rezoned be rejected, as the proposal is not consistent with a number of aspects of Policy 2.6.2.1, including that the site:
- lies within the Hazard 2 (flood) Overlay Zone, which poses a medium risk of flooding and is therefore inconsistent with Policy 2.6.2.1.d.viii.
 - is distant from the larger centres where people commute to work and school and so significant growth would not support the compact and accessible city objective, Objective 2.2.4. In addition, the site ranked poorly in relation to carbon emissions derived from commuting.
 - is not supported by DCC 3 Waters. There is a constrained potable water supply, no reticulated wastewater servicing in Outram, and considerable issues with stormwater management and flooding risk.
 - is almost totally covered by high class soils and rezoning and residential development would therefore represent a significant loss to potential rural productivity.

2.3.12.1.9 Decision and reasons

1262. We reject the submissions of *CC Otago Limited (S308.001 and S308.002)*, *Outram Developments Limited (S305.002 and S305.001)* and *Peter Doherty (S307.003 and S307.001)* and others to rezone RS175 and RS154 from Rural Taieri Plain to Township and Settlement.
1263. We accept and adopt the evidence in the section 42A report and in the officer's Reply Report, that fundamentally the rezoning of these sites does not meet Policy 2.6.2.1.
1264. Firstly we were concerned that the site would not support the overall compact city objectives of the Plan, given its remoteness from established urban centres providing a full range of employment and social and community facilities.
1265. We were also not satisfied that rezoning at Outram was necessary to meet a shortfall of capacity in this location as suggested by the submitters. We have discussed our conclusions in relation to the housing capacity modelling undertaken by Mr Stocker in section 2.1.1 above, and apply those conclusions in relation to this site. Mr Stocker's modelling does not

show that there is a shortfall of capacity in the outer urban area catchment. We are also conscious of his advice that modelling both demand and capacity at a smaller scale is likely to be inaccurate, and it is not appropriate, nor necessary, to model demand and capacity at a township scale.

1266. Based on Mr Stocker and Ms Christmas's evidence we do not consider we need to provide capacity at every specific location requested. Instead, we consider that our obligation is to consider the appropriateness of zoning the sites proposed through submissions, where these are in scope.
1267. With regard to Mr Horne's evidence that only 34% of residents of the Mangatua subdivision who travel to work drive to Dunedin, our view is that this evidence did not follow a generally acceptable independent representative surveying methodology and it is not appropriate to draw conclusions from it as being representative of the population of Outram.
1268. In response to the submissions of Mr McLachlan regarding the implementation of the NPS-UD by Variation 2, we adopt Mr Garbett's submission that the overarching purpose of Variation 2 is not to give full effect to the NPS-UD but rather our understanding, based on the stated purpose of Variation 2, is that it is a variation that has included some 'easy wins' to add additional capacity. We consider that the Future Development Strategy is the appropriate process to consider the broader obligations on DCC to ensure how to ensure adequate housing and business land capacity and supporting infrastructure, particularly for sites where there are some significant issues identified through evidence as part of the Variation 2 process. We have discussed this matter in more detail in section 2.1.1.
1269. We adopt the evidence of DCC 3 Waters that there are significant issues with potable water supply to Outram and other serviced parts of the Taieri, which make adding additional capacity to these areas problematic until upgrades can be completed. We also adopt the evidence of 3 waters in relation to the challenges of managing stormwater in relation to this site and ORC's support for the officer's recommendations to reject this and other sites where stormwater is of concern.
1270. We were also concerned about the lack of reticulated wastewater in Outram and the sustainability of expanding residential zoning in this location until such time that wastewater servicing can be provided (if deemed appropriate). We note that no evidence was received to support the viability or acceptability to the regional council of the submitters' proposal to provide on-site or communal wastewater treatment or the alternative to pump wastewater to Allanton. We are conscious of the concerns of further submitters in relation to the risk of ground water contamination from self-servicing for wastewater and note this would also be a matter of interest for the regional council, and we heard no evidence demonstrating that this would not occur.
1271. In relation to stormwater, we have given weight to neighbours' concerns about stormwater discharge and the risk of flooding in heavy rain events, as evidenced on the nearby subdivision (Anzac Court) in recent years. We acknowledge DCC 3 Waters evidence that providing sufficient stormwater detention on site is not likely to be feasible, and the lack of expert evidence demonstrating otherwise. We note that Mr Horne is not an expert stormwater engineer and furthermore is a director of *CC Otago Limited*, owner of 103 Formby Street. We are therefore not able to give his evidence on this matter significant weight.

1272. We were also concerned about the cumulative loss of productive rural land, particularly on the Taieri, which was a broad issue raised by a Variation 2 submitter, *Mr Miller*, and discussed in section 2.2.6. We note the new policy direction in the NPS-HPL requires much greater attention to that issue as discussed in section 3. We acknowledge Ms Peters' evidence that the site represents a very small percentage of high class soils in the area; however, we are now inclined to give more weight to protecting such land for the future than was given in the section 42A report.
1273. As an overall comment, we acknowledge that the submitters have called on a substantial amount of expertise, evidence, and legal submissions to support the rezoning of these sites. However, for the reasons outlined above we prefer the evidence and legal submissions called by DCC, and we are not satisfied that several key considerations in the policy framework for rezoning sites are able to be met. In the context of Variation 2, and its purpose for rezoning land in 'easy wins' situations to meet an identified shortfall in development capacity, we do not consider that rezoning any of this land, to residential, as requested, is appropriate or consistent with Policy 2.6.2.1.

2.3.13 Peninsula

2.3.13.1 336 & 336A Portobello Road, The Cove (GF14)

1274. The section addresses the submissions covered in section 5.2.15 of the section 42A report.
1275. Variation 2 proposed to rezone GF14 from Rural Residential 2 Zone to Township and Settlement Zone.
1276. This site is located along Portobello Road, with access from Weller Street, approximately 600m east of The Cove. It is a small site, having an estimated feasible capacity of 5 – 8 dwellings. The site slopes to the north, providing a sunny aspect, and is located close to a bus stop on Portobello Road.
1277. Mr Morrissey noted that the site is distant from a commercial centre (4km); however, there is a bus route adjacent to the site. He advised that the site has a geotechnical hazard associated with slope instability, and geotechnical assessment will be required prior to development. 3 waters upgrades are required; however, these are not considered to be significant.
1278. Mr Morrissey also noted that, at the time Variation 2 was notified, the Inner Peninsula Bays Significant Natural Landscape (SNL) was located along the boundary of the proposed rezoning area (i.e. the rezoning area was drawn to avoid the SNL). Since then, an appeal by The Preservation Coalition Trust on the 2GP has been resolved and the boundary of the SNL has moved. This means that part of the area proposed for rezoning is now within the SNL, and a small area of land that was formerly within the SNL is no longer affected by this overlay.

2.3.13.1.1 Submissions received

1279. *GTJM Property Limited (S263.001)*, the landowner, submitted in support of the proposed rezoning. Its original submission included a proposed concept development plan showing 12 residential sites accessed off Weller Street, all located behind the existing sites that adjoin Portobello Road (338 – 343 Portobello Road). The submission stated that the access road will be widened to a 10m width, with a passing bay to improve access and visibility. *GTJM*

Property Limited (S263.002) also sought that Change GF14 be amended to remove the new development mapped area.

1280. Ten submitters sought that Change GF14 be rejected for a range of reasons. All submitters consider that the area cannot support additional residential development at the density proposed by the landowner. Five of these submitters also lodged further submitters opposing the submission from *GTJM Property Limited*. Several of the further submitters sought to restrict the number of sections to five, providing other conditions are also met.

1281. In summary, the key concerns raised by the submitters included:

- land instability and hazards;
- 3 Water issues, in particular stormwater run-off and potable water supply;
- transport and access, particularly relating to Weller Street; and
- effects on landscape values.

1282. The *Dunedin City Council (S187.032)* submitted seeking consideration of whether the boundary of the proposed rezoning area should be amended in light of the 2GP appeal by the Preservation Coalition Trust in relation to the SNL.

2.3.13.1.2 Submitter's response to the section 42A report

1283. On behalf of *GTJM Property Limited*, Mr Joe Morrison (shareholder and director of *GTJM Property Limited*), Ms Bridget Irving (Legal Counsel), Mr Darryl Sycamore (Consulting Planner), Ms Grace Ryan (Traffic Engineer), and Mr James Molloy (Geotechnical Engineer) spoke to their statements at the hearing. Together they outlined an updated rezoning proposal, which would result in a 9-lot development together with upgrades to Weller Street. A key matter was that the submitter now proposed that the rezoning area is amended to lie outside the SNL. The part of 336 Portobello Road that is contained within the SNL is proposed to be retained as a balance lot of Rural Residential 2 land (not rezoned), which would provide for one residential dwelling, and managed in accordance with the advice of a Landscape Architect.

1284. Mr Sycamore's evidence was he did not consider a new development mapped area necessary, as it places an unnecessary impediment in providing additional housing capacity. Ms Irving in legal submissions also argued there is no need for a new development mapped area for this rezoning.

1285. *Mr Steve Shaw, Mr Darren Watts, Mr Tim Ponting* on behalf of his partner *Susan Davies, Ms Susan Walker*, and *Mr Neil Harraway* all attended the hearing and spoke to their submissions. Their evidence is discussed in relation to the topics outlined below. Several of these submitters indicated a reduced development of up to five houses could be acceptable.

2.3.13.1.3 Hazards

1286. Several of the submitters in opposition to the notified zoning who appeared at the hearing raised issues relating to natural hazards. *Mr Watts* and *Mr Harraway* said that the area is steep and unstable, with slipping occurring both onto Weller Street and onto private properties. *Mr Watts* said there had been 3 slips onto their property in the 10 years since they had lived there, and that the largest of these had resulted in \$50,000 in repair work. *Mr Harraway* also described a number of slips that have occurred in recent years.

1287. Mr Morrissey noted that the site was initially assessed by Stantec as having a medium level hazard related to slope instability. In response to the concerns raised by submitters, Mr Paterson from Stantec reviewed this assessment and advised that the concerns raised by submitters are valid for some of the steeper slopes and within the gully features of the site; however, overall, he considered the hazards risk remains at medium. He noted that land instability will be assessed in more detail at the time of subdivision, and it is likely that the conditions of consent will require that development does not pose any additional hazards risk to surrounding lots.
1288. Mr Molloy provided a geotechnical assessment report on behalf of *GTJM Property Limited*. He concluded that, while further geotechnical investigation and design would be necessary, the evidence and assessment completed to date supports the proposed rezoning.
1289. Mr Paterson, in response, said that while there are still a number of natural hazards on the site that would need to be mitigated through engineering design and general good earthworks practices, the assessment and evidence to date can support the proposed rezoning of the site.

2.3.13.1.4 3 waters

Potable water supply

1290. Several submissions expressed concerns that the existing potable water supply would be put under strain if rezoning were to occur. *Ms Davies* expanded further upon this at the hearing and raised concerns that, should subdivision occur, the existing water supply to residents may not be protected by easements.
1291. Mr Oliver and Mr Saunders, from DCC 3 Waters, advised that a new water supply connection would be necessary for the proposed development, and the existing informal connection could not be used to service the site.
1292. *GTJM Property Ltd* provided a water, wastewater, and stormwater infrastructure assessment report from Fluent Solutions. This report noted that the existing properties adjacent to the proposed development do not meet the current requirements of the DCC Code of Subdivision and Development 2010 as water supply connections. The developer is proposing to correct these nine adjacent non-compliant water supply connections.
1293. In their response, Mr Oliver and Mr Saunders acknowledged that the developer has allowed for the correction of the nine existing non-compliant water supply connections, and noted that this may help to address some of the concerns raised by submitters on this issue.

Wastewater

1294. The section 42A report noted that a minimal wastewater network extension would be required and that any downstream upgrades, if required, would be relatively minor.
1295. The Fluent Solutions report provided by the submitter detailed the proposed wastewater servicing. Mr Oliver and Mr Saunders noted that the information provided on wastewater servicing is in line with their expectations for the site.

Stormwater

1296. Submissions in opposition to the notified rezoning raised concerns that stormwater run-off is an existing issue for residents, and that this could be exacerbated by further development.
1297. DCC 3 Waters in response advised that stormwater management would be most appropriately managed under the rules covering new development mapped areas. This will require that there is no increase in the pre-development peak stormwater discharge rate from the development area into any public or private stormwater system or, where this is not practicable, any adverse effects from an increase in the discharge on any public or private stormwater system are to be no more than minor.
1298. The Fluent Solutions report detailed the proposed stormwater management for the site. It proposes that kerbside grated inlet sumps will collect stormwater from the road area to provide primary treatment of any stormwater runoff from the roads. The sumps will then drain to a stormwater trunk pipeline and discharge to the Otago Harbour via an outfall pipeline.
1299. Ms Irving's legal submissions were that the evidence demonstrates stormwater can be appropriately managed without the need for a NDMA overlay, which is a method that typically applies to much larger areas of land.
1300. The submitters who spoke at the hearing voiced concerns regarding stormwater discharges including into the Otago harbour. They opposed the removal of the NDMA and stated that it should be retained should the rezoning proceed.
1301. In response to the Fluent Solutions report, Mr Oliver and Mr Saunders advised that they consider rezoning to be acceptable from a 3 Waters perspective, but noted that the proposed stormwater management will not meet the Plan's NDMA rules. However, they considered that the stormwater management rules should be able to be met at this site, and therefore recommended that the NDMA should be retained to ensure this is the case. They advised that applying an NDMA would ensure that the associated specific requirements for stormwater management, including stormwater quality, would have to be met before development could occur.

2.3.13.1.5 Transport

1302. Several submitters opposing the rezoning raised concerns about the impact on the performance of Portobello Road, and the existing limitations of Weller Street (width, surface, intersection design and lack of access for emergency vehicles) as the only access to the site. Another concern was the widening of Weller Street and how this might affect existing houses (in terms of proximity to dwellings, associated retaining walls, a neighbouring shared driveway, and loss of trees that provide amenity value and bank stabilisation). Submitters were also concerned about what other infrastructure improvements are planned for Weller Street and the impacts this could have on their existing properties.
1303. Mr Morrissey sought advice from Mr Watson, DCC Transport, in relation to the concerns raised by submitters. The key concern relates to whether Weller Street can be upgraded to the appropriate standard and the feasibility of undertaking this. Mr Watson considered it necessary that the developer provide further design details to demonstrate what outcomes are actually achievable in respect of upgrading Weller Street before rezoning could be supported.

1304. Ms Ryan, Senior Traffic Engineer at GHD, gave evidence on behalf of *GTJM Property Limited* in relation to transport and roading issues, and in particular on the Integrated Transport Assessment. Ms Ryan considered that the proposed upgrades provide an opportunity to implement significant transport improvements to mitigate the existing constraints at the Weller Street intersection on Portobello Road. She concluded that the design would provide improved safety and access for existing residents and is an appropriate solution for the proposed location. It was Ms Ryan's opinion that the transport safety matters associated with rezoning the site can be addressed such that there will be an improved outcome for the roading network and existing residents relative to the existing circumstances.
1305. Further to the discussion at the hearing, Ms Ryan caucused with Mr Antoni Facey (consultant providing traffic advice on behalf of the DCC) to discuss in more detail the proposed transport implications.
1306. Mr Watson considered the submitter's evidence and design proposal, along with the subsequent discussions between Ms Ryan and Mr Facey, and advised us that there was now sufficient information for him to be satisfied that there is an acceptable solution available to resolve the identified roading issues (albeit with minor deficiencies). He said that further improvements and optimisations to the proposed solutions may be achievable through more detailed design at the time of subdivision. Mr Watson did note that the key remaining concern could be the turns to and from the east which do not appear possible to improve, but overall, the proposed access arrangements could be made to work.

2.3.13.1.6 *Landscape*

1307. Several submitters opposed rezoning due to concerns about the presence of the SNL at this locality, noting that the proposed development plan provided in *GTJM Property Limited's* submission encroaches into the SNL.
1308. Mr McKinlay, DCC Landscape Architect, provided an assessment of landscape values. In his opinion, zoning the part of GF14 that now lies within the SNL would be inconsistent with Policy 2.6.2.1.d.iv. He considered that, if GR14 is amended to only include areas outside the SNL, the effects on landscape values would be low.
1309. A landscape and visual effects assessment prepared for *GTJM Property Limited* and authored by Vivian+Espie was provided as evidence. The assessment indicated that the concept plan had been amended so that development would be outside the SNL, and in addition it included native revegetation of gullies and the remaining (upper) part of the site retained as open pasture.
1310. The report acknowledged that the proposal would lead to a small increase in residential development on the lower part of the site (below the SNL), similar to existing development in the area. However, it assessed the degree of adverse effects on landscape character resulting from the proposal as being low. The report concluded that the proposal is consistent with the relevant 2GP objectives and policies that relate to SNLs and district wide matters.

2.3.13.1.7 *Density and number of sites*

1311. Several of the further submitters who spoke at the hearing confirmed they were not opposed to all development, but that they had concerns about the density of development being proposed. A common theme was that they could support development of up to 5 lots,

as this would have less adverse effects. Mr Ponting, who spoke at the hearing on behalf of his partner *Susan Davies*, noted that if development were to be limited to 5 dwellings, there would be no requirement for such substantial roading upgrades.

1312. Mr Morrissey advised that if the Panel did wish to limit the number of lots, this could be achieved through a structure plan rule. However, he noted that the expert evidence did not indicate that a limit of 5 dwellings is necessary, and he was of the view that imposing such a limit was unnecessary and not an efficient use of the land.

2.3.13.1.8 Reporting Officer's recommendation

1313. Mr Morrissey relied on Mr Watson's advice that the proposed access arrangements are acceptable and achievable, subject to detailed design at the time of subdivision. He considered that all other matters raised through submissions were manageable, and that the proposed rezoning was generally in accordance with Policy 2.6.2.1.
1314. He advised that, on the advice of 3 Waters, although this is a small site the NDMA provisions are important for ensuring that stormwater will be managed appropriately.
1315. Overall, Mr Morrissey recommended that the amended area of GF14 (that is, to be fully outside the SNL) is rezoned residential, subject to a new development mapped area, a structure plan to manage the upgrading of Weller Street, and provision of a DCC-compliant potable water supply to nine adjacent properties outside of the rezoning area.

2.3.13.1.9 Decision and reasons

1316. Having considered all of the submissions and evidence, we find that there is sufficient evidence to persuade us that this site is suitable for residential development. Accordingly, we reject in part the submissions that opposed the notified rezoning of GF14.
1317. As outlined below, we accept the evidence provided that concerns raised in relation to this site are able to be appropriately managed. However, to achieve this, we have included additional requirements in structure plan mapped area rules to address concerns raised by submitters and based on expert advice on measures required. These are outlined below, and the amendments are shown in Appendix 1 with the reference 'Change GF14/S37.001', a submission in opposition.
1318. Firstly, we have confirmed that the area to be rezoned from what was notified so that it does not overlap with the SNL. For this we rely on DCC's submission S187.032, which we accept. Our decision relies on evidence from Vivian+Espie on behalf of *GTJM Property Limited*, that only development outside the SNL will appropriately protect landscape character. This was consistent with Mr McKinley's evidence that rezoning the SNL to residential would not protect the landscape values. We accept the evidence of Vivian+Espie and Mr McKinlay that rezoning the amended area will adequately protect the values of the SNL.
1319. We are conscious, however, that development would still be theoretically possible on the balance lot (Lot 10), which is within the SNL, under the Plan's Rural Residential 2 Zone rules. To develop in this area would not, according to the evidence of both landscape architects, appropriately protect the landscape values of the SNL. We have therefore included a structure plan mapped area rule with a requirement that subdivision retains the RR2 zoned part of the site in a larger 'balance lot' along with a portion of the Township and Settlement zoned area. One dwelling may be built on this larger site with adequate space provided

outside the SNL. In this way, there is no provision for an additional dwelling on a separate RR2 zoned lot that sits entirely within the SNL.

1320. Secondly, we accept Mr Molloy's evidence in relation to geotechnical matters and note that Mr Paterson agreed with his conclusions. Consequently, we are satisfied that the land is suitable for rezoning from a natural hazards perspective.
1321. Thirdly, we acknowledge that Mr Oliver and Mr Saunders both considered the rezoning to be acceptable from a 3 Waters perspective, provided a new development mapped area is applied to manage stormwater. We also acknowledge the developer's proposal to provide a compliant potable water supply connection to nine surrounding properties, and agree this is a benefit, and is appropriate, and have accordingly included this as a structure plan condition. We note this was an issue raised by several of the submitters who attended the hearing, and we anticipate that this requirement will act to address that aspect of their concerns. To achieve this, we have applied a structure plan mapped area rule to require that connections are provided to these existing dwellings.
1322. Fourthly, we accept Ms Ryan's evidence regarding transportation and roading matters, including the proposed upgrading of Weller Street. We note that Mr Watson agreed with Ms Ryan that the upgrades appear feasible, and that the only expert evidence we have in this regard is that rezoning can be supported from a transport perspective. We agree with Mr Morrissey's recommendation that a structure plan rule requiring the developer to upgrade Weller Street is appropriate. We also agree that an Integrated Transport Assessment is required at the time of subdivision to ensure the proposed upgrades are appropriate. We have included a structure plan rule to require this.
1323. Fifthly, we acknowledge the concerns of the submitters in opposition as to the density, however, we accept the evidence of Mr Morrissey that limiting the sites to five is not supported by the expert evidence received. Notwithstanding that, we do consider it appropriate to cap the number of dwellings at nine. This is the number proposed by *GTJM Property Limited*, and on which their expert evidence on transport (Weller Street upgrade) and landscape effects is based. We have no evidence that any development additional to this would be acceptable. The structure plan approach discussed above provided for the nine dwellings to be located in the Township and Settlement zoned area.
1324. Overall, we consider that the expert evidence provided by the submitter addresses the key concerns for this site. We consider that our amendments appropriately balance, in accordance with section 32AA of the RMA, the costs to developers (from the structure plan and other controls) with the benefits of an improved overall development outcome which will increase housing capacity.
1325. While we are not formally requiring it as a Plan provision, we do consider it appropriate that the landowner consults with the neighbours as affected parties prior to and during the course of development, noting that this should be required in any event if there is any infringement of rules triggering resource consent requirements during the course of subdivision.
1326. We reject the submission from *GTJM Property Limited (S263.001)* that sought to remove the new development mapped area. We acknowledge Ms Irving's submission that NDMA is typically applied to larger sites, however development of this site may not be quite as straight forward as other sites, and we agree with Mr Oliver and Mr Saunders that the new development mapped area is needed to ensure appropriate stormwater management. This

is a key factor that gave us some comfort that the site can be rezoned. We also consider that the other NDMA provisions will ensure subdivision best practice is undertaken, and that meeting these requirements should not be unduly onerous to the developer. As a consequential change under clause 16, we have added this site to the list of NDMA's in Appendix 12C of the Plan.

2.3.13.2 Area west of Highcliff Road, Portobello (GF15 and GF17)

- 1327. This section addresses the submissions covered in section 5.2.16 of the section 42A report.
- 1328. Variation 2 proposed to rezone GF15 from Rural Residential 2 zone to Large Lot Residential 1 zone and GF17 from Rural Residential zone to Recreation zone.
- 1329. GF15 and GF17 are located on the western side of Highcliff Road as it approaches Portobello township. GF15 comprises 23 and 25 McAuley Road, 1693, 1687, 1683 and 1661 Highcliff Road, and GF17 comprises 23 Moss Street (previously 26 McAuley Road).
- 1330. The section 42A report explains that GF15 was proposed for Large Lot Residential 1 zoning because it has an undulating topography, is steep in parts, and includes a gully all of which would reduce development capacity. GF17 is a relatively low-lying gully area that has been developed with a number of ponds and associated native plantings. The report states that as the landowner of GF17 does not intend to residentially develop the site, Recreation zoning was proposed.
- 1331. Both sites adjoin Portobello township and are close to a primary school, neighbourhood centre, and a bus route into Dunedin. The area has a generally northwest aspect.
- 1332. Mr Morrissey's evidence was that the rezoning represents a natural extension to the south of the existing Township and Settlement zoning near Portobello, and rezoning is generally consistent with Policy 2.6.2.1 and, for GF15, is also consistent with Policy 2.2.4.1.
- 1333. The section 42A report said that DCC Transport had advised that additional development on the Otago Peninsula will contribute to underperformance of the roading network, and that various transport upgrades would be required including footpath construction.
- 1334. The section 42A report indicates that there is a medium level hazard associated with slope instability on GF15 and that geotechnical assessment would be required prior to development.
- 1335. We note the landowner and several other submitters supported the rezoning.

2.3.13.2.1 3 waters

- 1336. The *ORC (S271.036, S271.034)* lodged submissions and further submissions to remove both Change GF15 and 17 unless further information is provided to clarify how water quality will be managed in the downstream receiving environments.
- 1337. 3 Waters advised stormwater management will be required in accordance with the rules covering new development mapped areas. Policy 9.2.1.Y of the 2GP will need to be met, which requires that there is no increase in the pre-development peak stormwater discharge rate from the development area into any public or private stormwater system. Where this is not practicable, any adverse effects from an increase in the discharge on any public or private stormwater system must be no more than minor.

1338. Mr Morrissey clarified in his Reply Report that the proposed new development mapped area proposed for GF15 would cover GF15 only and that a separate new development mapped area is proposed to cover the adjacent greenfield rezoning site (GF16).
1339. He also clarified that there are existing rules and policies in the 2GP that manage a range of activities that could adversely affect water quality, and these rules apply throughout Dunedin. This includes Rule 8A.5.7 which manages sediment control during earthworks, and Rule 8A.5.10 which requires earthworks (large scale) to be setback from water bodies. Mr Morrissey also noted that discharge of sediment, or water containing sediment, may require resource consent from the ORC.
1340. He said that GF15 would be serviced for 3 waters through the reticulated network, and that overall whilst 3 waters upgrades are required, they are considered manageable.

2.3.13.2.2 Reporting Officer's recommendation

1341. Mr Morrissey considered that the matters relating to stormwater management could be adequately addressed, and all other relevant policy matters are achieved for these sites. He therefore recommended that the notified rezoning of both GF15 and GF17 is confirmed.

2.3.13.2.3 Decision and reasons

1342. We reject the submission by the ORC (*S271.034, S271.036*) to remove the rezoning. We accept Mr Morrissey's evidence that all relevant policy matters are met for the proposed rezoning of the sites. We are also satisfied that stormwater management can be appropriately addressed through the application of a new development mapped area and the existing rules in the 2GP.
1343. Consequently, we retain Changes GF15 and GF17 as notified. As a consequential change under clause 16, we have added GF15 to the list of NDMA's in Appendix 12C of the Plan.

2.3.13.3 Area east of Highcliff Road, Portobello (GF16)

1344. This section addresses the submissions covered in section 5.2.17 of the section 42A report.
1345. Variation 2 proposed to rezone GF16 from Rural Residential 2 zone to Township and Settlement zone.
1346. The site is located on the eastern side of Highcliff Road as it approaches Portobello township, and comprises 1694, 1680 Highcliff Road, 1664 Highcliff Road (in part), and 27 Hereweka Street, Portobello. The site adjoins Portobello township, and is close to a primary school, neighbourhood centre, and a bus route into Dunedin. The site has a generally northerly or north-easterly aspect.
1347. In the section 42A report, Mr Morrissey noted that the site has a medium level hazard associated with slope instability, and geotechnical assessment would be required prior to development.
1348. The report notes there is a small stream (Latham Bay Stream) immediately to the west of Hereweka Street and this is subject to an esplanade strip mapped area, meaning an esplanade strip of minimum width of 20m must be provided through subdivision.
1349. The report also noted that 3 waters upgrades are required but are considered manageable.

1350. DCC Transport had advised that additional development on the Otago Peninsula will contribute to underperformance of the roading network, and that various transport upgrades would be required including footpath construction.

2.3.13.3.1 Submissions received

1351. The *ORC (S271.035)* submitted to remove Change GF16, unless further information was provided to clarify how water quality will be managed in the downstream receiving environments. The ORC also made further submissions raising the same concern.
1352. *Ernie and Fay Webster (S25.001)* supported the proposed rezoning as it related to 1694 Highcliff Road, and did not comment on the other individual sites within GF16.
1353. *Mareiike and Jack Barton (S67.001)* supported the proposed rezoning as it relates to 1694 Highcliff Road, provided that rezoning does not adversely affect their property at 13 Hereweka Street (in terms of flooding risk), and that earthworks do not lead to decreased water quality.
1354. None of the submitters spoke at the hearing.

2.3.13.3.2 Reporting Officer's recommendation

1355. In the section 42A report, Mr Morrissey addressed the concerns raised in with respect to stormwater and effects on 13 Hereweka Street. He stated that stormwater management will be required in accordance with the rules covering new development mapped areas. Policy 9.2.1.Y of the 2GP will need to be met, which requires that there is no increase in the pre-development peak stormwater discharge rate from the development area into any public or private stormwater system. Where this isn't practicable, any adverse effects from an increase in the discharge on any public or private stormwater system must be no more than minor.
1356. Mr Morrissey also noted that there are existing policies and rules in the 2GP which manage a range of activities that could adversely affect water quality. This includes Rule 8A.5.7 which manages sediment control during earthworks, and Rule 8A.5.10 which requires earthworks (large scale) to be setback from water bodies. Mr Morrissey also noted that discharge of sediment, or water containing sediment, may require resource consent from the ORC.
1357. His Reply Report clarified that the new development mapped area proposed for GF16 would cover GF16 only (a separate new development mapped area is proposed to cover the adjacent greenfield rezoning site, GF15). He also clarified that GF16 would be connected to the reticulated wastewater system.
1358. Mr Morrissey's evidence was that rezoning of this land represents a natural extension to the south of the existing Township and Settlement zoning near Portobello. He considered rezoning to be generally consistent with Policy 2.6.2.1, and recommended that rezoning of GF16 be confirmed, along with the application of a new development mapped area and removal of a small area of high class mapped soils, as notified.

2.3.13.3.3 Decision and reasons

1359. We reject the submission by the *ORC (S271.035)* to remove the rezoning as we are satisfied that all the relevant policy matters are achieved, and in particular the concerns relating to stormwater management can be appropriately addressed through the application of a new

development mapped area and the existing rules in the 2GP. As a consequential change under clause 16, we have added this site to the list of NDMAs in Appendix 12C of the Plan.

1360. Consequently, we retain Change GF16 as notified.

2.3.13.4 750 Highcliff Road (RS165)

1361. This section addresses the submissions covered in section 5.4.9 of the section 42A report.

1362. RS165 is located on the Otago Peninsula near the intersection of Highcliff Road and Kareta Road, above Macandrew Bay. It is 10.3ha and is subject to a number of overlays – the Otago Peninsula Outstanding Natural Landscape (ONL), a Radio Transmitters mapped area, there are high class soils over approximately half of the site, and it is within a wāhi tūpuna mapped area (Upper slopes and peaks of Otago Peninsula). The section 42A report notes that the site is distant from public transport, any suburban centre and existing residential zoning. The section 32 report indicates that the site was originally rejected due to the ONL, and was therefore considered inappropriate for residential development due to the significance of the landscape values and their protection under the 2GP policy framework.

2.3.13.4.1 Submissions received

1363. *Christopher and Allison Stewart (S276.001)*, the landowners, sought to rezone RS165 to General Residential 1. The submitters stated that the locality has a pleasant although unmemorable landscape and is able to provide good building platforms that can both offer appealing views and mitigate effects on landscape. The submission notes the numerous transmitter masts and associated buildings nearby, numerous dwellings situated on relatively small land-holdings in the wider area, a lack of natural hazards, good topography, and limited rural productivity. This submission was opposed by the *ORC (FS184.73)* and *Radio New Zealand Limited (FS199.1)*.

1364. At the hearing, Ms Sally Stewart stated they are now seeking rezoning to Large Lot Residential 2, rather than General Residential 1. Ms Stewart noted that the site is not highly productive farmland and resultant sites could self-service for 3 waters.

1365. *Radio New Zealand (RNZ)* tabled a legal submission at the hearing, reiterating their opposition to residential rezoning, particularly with respect to concerns about reverse sensitivity effects for the nearby radio transmitter sites.

2.3.13.4.2 Reporting Officer's recommendation

1366. In the section 42A report, Mr Morrissey considered that rezoning the site to residential has multiple clear conflicts with Policy 2.6.2.1, and consequently the site is unsuitable for residential rezoning. In particular, the presence of the ONL conflicts with Policy 2.6.2.1.d.iv.

1367. Additionally, he noted that the site is disconnected from existing residentially zoned land, and this would result in conflict with Policy 2.6.2.1.d.xi, which requires Dunedin stays a compact and accessible city. If servicing is required, this would result in inefficient and ineffective public infrastructure, given the distance from existing serviced areas (Policy 2.6.2.1.d.ix). Given the site's distance to public transport, centres, and other community facilities, he considered that rezoning would also have a conflict with Policy 2.6.2.1.c. He also agreed with RNZ about the potential for reverse sensitivity effects (a conflict with Policy 2.6.2.1.d.ii).

1368. In his Reply Report, Mr Morrissey confirmed that he considered any form of residential zoning, including Large Lot Residential, to be inappropriate at this location due to the conflicts with Policy 2.6.2.1.

2.3.13.4.3 Decision and reasons

1369. We accept the reasons given by Mr Morrissey in the section 42A report and Reply Report, as to the conflicts that rezoning this land to residential has with several relevant policies.
1370. Accordingly the submission of *Christopher and Allison Stewart (S276.001)* to rezone RS165 is rejected. The further submissions from the *ORC (FS184.73)* and *Radio New Zealand Limited (RNZ) (FS199.1)* are accepted.
1371. We acknowledge that Large Lot Residential zoning has been proposed; however, we agree with Mr Morrissey that the proposal remains inconsistent with Policy 2.6.2.1, and with Policy 2.2.4.1, which requires that land is to be used efficiently unless site-specific constraints make this inappropriate. We also refer to our general discussion on Large Lot zoning in section 2.1.4 above.

2.3.13.5 177 Tomahawk Road (RS193)

1372. This section addresses the submissions covered in section 5.4.17 of the section 42A report.
1373. RS193 is located in Ocean Grove and is adjacent to Tomahawk Lagoon. The site is 7.8ha in area and is currently zoned Rural Peninsula Coast. To the west, the site is bounded by General Residential 1 zoning, while to the east it adjoins Tomahawk Lagoon, an Area of Significant Biodiversity Value (ASBV). The western part of the site is steep, while the eastern part of the site adjacent to the lagoon is flatter. Two overlays affect the eastern margin of the site – the Tomahawk Lagoon Coastal Character Overlay Zone covers the majority of the flat part of the site and there is also a Hazard 3 (coastal) Overlay Zone present on this eastern flat section.
1374. The section 42A report states that the site was originally rejected as stormwater discharge from the site is complex and it would need to be discharged into Tomahawk Lagoon. The implication was there would be significant water quality issues that may mean that discharge consent is challenging to obtain.

2.3.13.5.1 Submissions received

1375. *Max Hope Trust (S283.001)* and *Dani Nicolson (S33.001)* submitted to rezone the site to General Residential 1. The reasons given include that there is a shortage of residential property in Dunedin, the property has good transport links with multiple road access points (Tomahawk Road and Gloucester Street), is close to public transport, has high levels of residential amenity and is close to the central city. It was also noted that the site lies between two established suburbs, is unsatisfactory for primary production, and engineering solutions exist to manage the stormwater issues.
1376. Several further submissions were lodged in support:
- *Brent Patterson (FS34.1 and FS34.2)*, conditional on Gloucester Street being appropriately upgraded;

- *Maria Larcombe (FS158.1)*, conditional on further consideration of stormwater management being undertaken prior to any development; and
- *Danielle Nicolson and Tim Lequeux and Sorrel O'Connel Milne Nicolson (FS64.1)*.

1377. *Stephen Aydon (S20.001)* submitted to not rezone the site and several other further submitters also opposed the rezoning including *ORC (FS184.78, FS184.94)*, *Steve Bates (FS228.1, FS228.2)*, *Vicky Johns (FS249.1)*, *Barry and Kathryn Love (FS29.2, FS29.1)*, and *Elizabeth Todd (FS87.2, FS87.1)*. Concerns raised included hazards, impacts to biodiversity and the lagoon ecosystem, stormwater run-off, loss of rural character, inadequate transportation infrastructure, loss of general amenity, and potential decreases in property prices.

2.3.13.5.2 Submitters' response to the section 42A report and proposed structure plan

1378. At the hearing, consultant Mr Kurt Bowen, *Ms Nicolson* and *Ms O'Connel Milne*, spoke on behalf of *Danielle Nicolson and Tim Lequeux and Sorrel O'Connel Milne* (*Danielle Nicolson* and *Tim Lequeux* are the current owners of the site) and outlined a more detailed proposal for the site. This was in response to some issues identified in the section 42a report.

1379. Mr Bowen presented a draft structure plan which divides the site into four areas: three of these (Areas A, B, and C) would be rezoned to General Residential 1 while Area D, adjoining Tomahawk Lagoon, would be rezoned Recreation. Areas A and B would have a combined maximum yield of 68 dwellings, although we were advised a realistic yield is 34 dwellings. The submitters proposed a restriction of no more than one residential site in Area C. The structure plan shows 8 dwellings in Areas A accessed from Gloucester Street, with the remainder from Tomahawk Road. A stormwater management area is shown in Area D.

1380. We did not hear from any other submitter or further submitter on this site.

2.3.13.5.3 Hazards

1381. The section 42A report outlined that the site had been assessed by Stantec as having a high level hazard associated with slope instability on the steep portion of the site, and liquefaction and landfill hazards on the flatter portion of the site. Stantec commented that it is possible that much of this area is unsuitable for dense residential development, although there are some flatter sections within the site that would be suitable for building.

1382. Ms Nicolson provided a preliminary geotechnical assessment for the site completed by Mr Mark Walrond of GeoSolve. The report considered that much of the area being considered for potential rezoning is likely to be appropriate for residential use, and no significant evidence for major constraints to residential development were identified. It recommended standard subsurface investigations for any subdivision and residential land use.

1383. Mr Paterson of Stantec reviewed the GeoSolve report and considered that it addresses potential geotechnical hazard conditions, general feasibility of residential development, constraints to residential development and recommendations for future subsurface investigation. Mr Paterson noted that there are still a number of geotechnical risks on the site that will need to be mitigated through engineering design and general good earthworks practices but, overall, he considered the GeoSolve report provided sufficient validation that the site is suitable for the proposed rezoning from a hazards perspective.

2.3.13.5.4 Biodiversity

- 1384. A number of submitters raised concerns relating to the potential impacts on biodiversity values in the area (both flora and fauna) and the lagoon ecosystem.
- 1385. A biodiversity assessment of the site was completed by Mr Kelvin Lloyd of Wildland Consultants for DCC. This identified some individual lowland totara on the southwest boundary of the site, along with large individuals of ngaio in the centre of the site, that warrant protection. Wildlands also advised that development should be avoided on the lower parts of the site due to the proximity with Tomahawk Lagoon and its regionally important wildlife values.
- 1386. In his evidence, Mr Bowen agreed with the biodiversity recommendations outlined in the section 42A report, and noted that it is the submitters' intention that a variety of conservation works are undertaken on the site as part of any development. Mr Bowen noted that the proposed rezoning would very possibly result in positive biodiversity effects, and would exceed those recommended by Wildland Consultants. He emphasised that Area D was sought to be zoned Recreation, and this area will be used to support activities including community and leisure, conservation, sport and recreation and grazing. No housing is proposed in this area.

2.3.13.5.5 Stormwater

- 1387. A number of further submitters raised concerns about stormwater run-off, and in particular highlighted that the site is located adjacent to a regionally significant wetland.
- 1388. The section 42A report contains an assessment from DCC 3 Waters. DCC 3 Waters advised that the site discharges stormwater to Tomahawk Lagoon and other tidal-influenced coastal areas, all downstream of the site. The assessment assumes that an overland flow path can be established/ designed to direct discharge to these tidal areas without the need for onsite attenuation. Erosion protection and stormwater quality treatment would be required. However, Tomahawk Lagoon is classed as a regionally significant wetland and discharge would require resource consent from the Otago Regional Council. 3 Waters' advice was that meeting the new stormwater management rules in Variation 2 is not expected to be sufficient to address stormwater issues due to this consenting requirement and Tomahawk Lagoon's status as a regionally significant wetland. We note that ORC opposed the rezoning but did not present evidence at the hearing to explain its opposition.
- 1389. The submitters presented at the hearing a "Preliminary Stormwater Management Options" report from e3Scientific Ltd. This outlined that there would be land-based infrastructure options available to ensure stormwater is not required to be discharged to the lagoon. The report author considered that, provided the recommendations contained within the report are followed, residential development would have a negligible effect on the ecology and water/sediment quality of the lagoon. Based on this, Mr Bowen concluded that the proposed rezoning will not result in any adverse effects in respect of stormwater and will achieve a net improvement. With respect to discharge consent from the Otago Regional Council, Mr Bowen commented that there is no reason for the ORC not to issue a discharge consent, provided that the design of the treatment system is comprehensive and robust.
- 1390. It is important to note that the report referred to above had not assessed the stormwater effects from development of the whole site, rather it only considered development occurring in Area A.

1391. Mr Oliver and Mr Saunders reviewed the e3Scientific report and commented that their position remains the same and they have ongoing concerns in relation to stormwater management and the potential difficulty in obtaining a resource consent. They did however note that a partial rezone on the upper part of the site to cover the proposed 8 sites in Area 'A' of the structure plan may be possible in terms of 3 waters infrastructure. However they maintained their view that, overall, rezoning of any of the land was not supported.
1392. The submitters also provided a letter from Aukaha, a manawhenua-owned consultancy, which provided a response on behalf of Te Rūnanga o Ōtākou. Te Rūnanga o Ōtākou advised they had no specific concerns with the proposed rezoning on the understanding that a heritage protocol is adhered to, a planting plan is implemented, and sampling is undertaken of the stormwater discharge. The Heritage New Zealand Pouhere Taonga Accidental Discovery Protocol was included as part of the submitter's hearing evidence.

2.3.13.5.6 Water supply

1393. DCC 3 Waters commented that the existing potable water supply infrastructure appears adequate, although an upgrade may be required to the water main in Gloucester Street.

2.3.13.5.7 Wastewater

1394. DCC 3 Waters noted the existing wastewater infrastructure provides sufficient capacity for additional flows but does not achieve the grade necessary for self-cleaning. It considered that the capacity of the downstream pump station to accept additional flows would require additional assessment.
1395. Mr Bowen considered any wastewater issues are likely able to be addressed through development, particularly considering the lower yield of sites now anticipated compared to what was initially assessed by DCC 3 Waters in the section 42A report.

2.3.13.5.8 Landscape and rural character, and general amenity

1396. Several submitters raised concerns regarding loss of rural character, potential loss of views, and concerns that rezoning would result in a "high density" of development in a rural/semi-rural area.
1397. Mr McKinlay, DCC Landscape Architect, as part of the section 42A report noted that the surrounding rural land, including the subject site, contribute to the natural character setting of the lagoon. He considered that a limited extent of residential development could potentially be accommodated within a much smaller area adjacent to existing residential development near Gloucester Street without adversely affecting existing landscape character values to a high degree. In response to evidence presented at the hearing, Mr McKinlay agreed that the proposal to rezone Area D as Recreation could avoid the most severe adverse effects on the natural character of the lagoon and its immediate surrounds.
1398. He considered that the smaller area shown as 'Area A' (adjacent to Gloucester Street) on the submitters' structure plan would have relatively low effects on both rural character and visual amenity values as it would be seen as a relatively small extension of the neighbouring residential area.

2.3.13.5.9 Transport

1399. DCC Transport commented that Gloucester Street does not meet the required standard (NZS4404:2010) for a road serving between 1 – 20 dwellings, as there are no berms and the footpath on the northern side is too narrow, although it is noted that the formed carriageway is wider than required. They stated that NZS4404:2010 requires a 15m wide reserve width with a 5.5 – 5.7m wide carriageway and footpaths and berms on both sides. The intersection between Gloucester Street and Spencer Street and Tomahawk Road would need to be reviewed and potentially upgraded. Tomahawk Road has a suitable cross section to absorb additional traffic; however, there are known speed issues on the road. They considered an Integrated Transport Assessment would be required at the time of subdivision, and would need to include how active road users such as pedestrians and cyclists would be safely provided for.
1400. Mr Bowen noted that the proposed structure plan limits the number of sites accessing Gloucester Street to eight. The remaining sites will be accessed from Tomahawk Road. He noted that the lower yield now proposed would reduce any adverse effects. He also noted that a footpath could be constructed along the eastern side of Gloucester Street if required. He considered that the need for upgrades could be more fully investigated at the time a resource consent application is prepared for any development within the land.

2.3.13.5.10 Other issues

1401. One of the submitters raised concerns about the potential for a decrease in existing property prices should the rezoning occur due to loss of views. In the section 42A report, Mr Morrissey noted that the 2GP contains existing performance standards to manage height, and also noted that due to the steep slopes, views from existing dwellings are likely to be relatively unaffected. It is also our understanding that any direct effect on adjacent property values is not something we are able to consider under the RMA.

2.3.13.5.11 Reporting Officer's recommendation

1402. Mr Morrissey did not support the rezoning request due to the concerns raised, particularly in terms of stormwater, however, he said that if rezoning occurs, it should be restricted to Area A, which provide for eight dwellings. He recommended that, should rezoning proceed, a new development mapped area and a structure plan should be applied to the site to limit the number of dwellings permitted to eight, and to include a note that obtaining resource consent for stormwater discharge (i.e. from ORC) is the applicant's responsibility, and that any consent granted must be issued in the DCC's name.
1403. Following the hearing presentations, and subsequent to Mr Morrissey presenting his Reply Report, we invited submitters *Danielle Nicolson and Tim Lequeux and Sorrel O'Connell Milne* to provide additional information to support their submission¹³, specifically an updated structure plan and further information on stormwater management whereby the development of the whole structure plan area for development could be assessed. This was received on 7 October 2022¹⁴. A key change was that the submitters proposed to retain Area D (adjacent to the lagoon) as Rural zoning. Further information and assessment regarding stormwater management was received along with a planting plan and additional comments from the submitters and their consultant (Paterson Pitts). The additional information

¹³ Minute 14, RS193 Tomahawk, 19 September 2022. [DCC-Var-2-Minute-14 .pdf \(dunedin.govt.nz\)](#)

¹⁴ Response to Minute 14, 7 October 2022. [Microsoft Word - D18088 Response to Minute 14.docx \(dunedin.govt.nz\)](#)

included, in its calculations of the area required for stormwater management, flows from the adjacent site of 155 Tomahawk Road (located outside of the rezoning area). The information provided indicates there is enough land available to treat the total residential catchment.

1404. Mr Morrissey and Mr Saunders of DCC 3 Waters reviewed the information provided. Mr Saunders advised that the additional information provided had not materially changed his view on the inappropriateness of rezoning the site from a stormwater management perspective. He highlighted concerns about the risk that discharge consent may not be granted by the Otago Regional Council, and that rezoning could set a precedent for future rezonings in the area resulting in cumulative impacts to Tomahawk Lagoon. He noted some concerns and uncertainties regarding the material provided by the submitter. In light of the concerns raised by Mr Saunders, Mr Morrissey advised that he did not recommend rezoning of any part of the site, and urged us to carefully consider whether even 'Area A' is suitable for rezoning.

2.3.13.5.12 Decision and reasons

1405. We accept in part the submissions seeking to rezone RS193 to General Residential 1. We acknowledge this is a complex site, and the submitters have prepared a significant amount of information to support the requested rezoning. Our decision is to rezone the site, but with a structure plan limiting subdivision to eight new residential lots in Area A of the submitter's structure plan, with provision for one additional residential activity on the balance lot (Area C).
1406. The primary issue of concern is stormwater management, and the potential impacts on Tomahawk Lagoon. In general, we do not consider that the evidence is sufficient to persuade us that the major part of the site at RS193, i.e. all land outside of 'Area A' is suitable for residential development, and we are mindful of the evidence from Mr Oliver and Mr Saunders as recommending these areas are not rezoned. We accept that Tomahawk Lagoon is a sensitive environment, and whilst the updated e3Scientific Ltd report commented on there being sufficient land for stormwater to be managed over the whole site we cannot be sure that ORC would view this favourably as part of a resource consent application. For discharges into a particularly sensitive environment. We note again that ORC had submitted in opposition to this rezoning proposal and we had no other correspondence or evidence from ORC to provide us with comfort as to how such an application might be assessed by ORC. Regarding 'Area C', we note there is an existing house in this area (albeit unoccupied), and so rezoning this area with a structure plan limiting the number of dwellings to one would not yield any further additional capacity. On that basis, we have provided for rezoning of Area A and Area C only.
1407. For 'Area A', we note that the submitters' stormwater assessment is based on development of eight lots, and our decision is therefore to limit the number of lots to eight in this area. We also adopt the recommendations of Mr Morrissey which were to apply a new development mapped area along with a structure plan restricting the number of dwellings and specifying that obtaining resource consent for stormwater discharge is the applicant's responsibility (rather than DCC's) and that any stormwater discharge consent must be issued in the DCC's name. We have required that stormwater consent is obtained prior to a subdivision application being made, so DCC has comfort that discharge of stormwater is possible when assessing the appropriateness of the subdivision.

1408. We have added assessment guidance into the structure plan rules outlining the reason for limiting development of the site to eight lots. To ensure that there is no undue pressure on DCC to allow development on the relatively small 'balance lots' that will be created once Area A is subdivided, the structure plan requires that these are amalgamed with the larger lot that forms the bulk of Area B on the structure plan.
1409. We note the submitters' proposal to enhance the lower parts of the site with native plantings, as mitigation for the proposed new development. We support this approach and consider that such planting will improve biodiversity values within the area and help address any reduction in water quality within Tomahawk Lagoon. Consequently, we have required, through a structure plan mapped area rule, a biodiversity enhancement plan to be prepared at the time of subdivision. This will help inform the assessment of whether subdivision design maintains or enhances areas with important natural environment values, as required under Rule 12.X.2.5.d.
1410. We also consider that provision should be made for public access to the lagoon. It is commonplace for an esplanade strip or reserve to be required at the time of subdivision of land adjacent to the coast or waterway. We note that at this site there is a narrow strip (approximately 5m wide) of land, held by the Department of Conservation, along the majority of the eastern boundary of the site adjacent to the lagoon. We consider it appropriate that future subdivision provides for an additional 15m wide strip adjoining this, forming a 20m wide esplanade reserve. This should allow good future public access along the lagoon.
1411. In addition, we consider that the future subdivision of the site should create legal access for a pedestrian route that links Gloucester Street with Tomahawk Road. We have not made it a requirement that this pedestrian access is formed, but rather that the legal corridor is created to allow a future connection. This requirement will form part of the structure plan for the site and is important to ensure good connectivity is provided.
1412. In relation to the other aspects of Policy 2.6.2.1, based on the evidence we received we consider that these are generally satisfied. The site is well located in terms of proximity to services, amenities and public transport, hazards issues are considered to be manageable, and (provided stormwater is managed appropriately) zoning 'Area A' will not affect any significant landscapes, coastal character areas, areas of significant biodiversity or high class soils.
1413. Overall, having considered the costs and benefits of zoning in accordance with section 32AA, we consider the providing for a limited amount of new development in 'Area A' is appropriate and can be adequately managed.
1414. Our changes in relation to this site are shown in Appendix 1 with the reference 'Change RS193/S33.001'.
1415. Consequentially, we reject the submissions and further submissions that opposed rezoning.

2.3.14 Sawyers Bay

2.3.14.1 103, 105, 107 Hall Road, Sawyers Bay (RS170)

1416. This section addresses the submissions covered in section 5.4.13 of the section 42A report.

- 1417. RS170 is located at the upper end of Sawyers Bay, and comprises Part of 103, 105, and 107 Hall Road. The total area of the site is 1.3ha. The site is zoned Rural Residential 1 and is located immediately adjacent to the existing Township and Settlement zoning. The site has no overlays, although the Sawyers Bay Stream Esplanade Strip does pass through the site.
- 1418. The section 42A report states the site was originally rejected as part of the screening of sites for Variation 2 as development would exacerbate downstream wastewater overflows.

2.3.14.1.1 Submissions received

- 1419. *Andrew Rutherford (S71.001)*, the landowner, submitted to rezone the site to residential. Mr Morrissey noted that while the exact zoning sought was not specified in the submission, subsequent correspondence indicated that *Mr Rutherford* would be guided by what is feasible for the site in terms of 3 waters capacity. *Mr Andrew Rutherford* and *Ms Simone Lehr* spoke at the hearing and tabled a written statement. *Mr Rutherford* requested that the area is zoned Township and Settlement or, if that is not possible, to zone the site Large Lot Residential, as self-servicing for 3 waters is possible under this zoning.
- 1420. The Southern Heritage Trust (FS226.1) supported the submission from Mr Rutherford.
- 1421. *Lesley Procter (FS256.001)* opposed rezoning and outlined a range of amenity concerns which she addressed further at the hearing. *Daryl Trainor (FS67.1)* also opposed rezoning unless the entirety of the property at 105 Hall Road was also zoned residential, and controls on building height and positioning away from boundaries were implemented.

2.3.14.1.2 Landscape, amenity and biodiversity

- 1422. Mr McKinlay, DCC Landscape Architect, considered that Large Lot Residential sites could be accommodated in this locality with relatively low adverse effects on existing rural-residential character and visual amenity.
- 1423. In the section 42A report, Mr Morrissey acknowledged the concerns from *Lesley Procter (FS256.001)* regarding loss of amenity values, but considered that these were likely to be overall low and localised due to the relatively small size of any development on the site.

2.3.14.1.3 Transport

- 1424. Mr Watson, DCC Transport, advised that development is achievable from a transport perspective, but access to the site would need to be considered in more detail at the time of subdivision. An Integrated Transport Assessment would then be required.
- 1425. Ms Proctor raised concerns that the bridge discussed in the section 42A report was identified as being in the wrong place.

2.3.14.1.4 3 waters

- 1426. DCC 3 Waters provided an assessment of the site as part of the section 42A report. In relation to wastewater, there are currently overflows at the downstream Sawyers Bay wastewater pumping station in wet weather, with consequent environmental effects. Significant downstream wastewater upgrades are likely to be required, which could take many years to resolve. 3 Waters noted that while the local potable water supply infrastructure is adequate to service the site, the Port Chalmers supply which supplies it is constrained during peak

summer periods and significant upstream upgrades are required to resolve this, with an expected timeframe of 5-8 years.

- 1427. The section 42A report noted that if the land is rezoned that stormwater would need to be managed in accordance with the new development mapped area requirements.
- 1428. In their response to Mr Rutherford's request for Large Lot Residential zoning with self-servicing, DCC 3 Waters commented that while they would not support this at Township and Settlement density, they could support it at a Large Lot Residential density.
- 1429. Regarding stormwater, DCC 3 Waters noted there would need to be requirements added to require an attenuation assessment for 100-year storm flows at the time of subdivision.

2.3.14.1.5 Reporting Officer's recommendation

- 1430. Mr Morrissey noted that rezoning the site is generally consistent with the criteria in Policy 2.6.2.1, however the significant issues with respect to the wastewater network means that he did not consider enabling further residential zoning in Sawyers Bay appropriate. Until the wastewater issues can be resolved, he recommended that rezoning RS170 is rejected.
- 1431. In his Reply, he responded to *Mr Rutherford's* Large Lot Residential proposal, and considered that this would not be an efficient use of the land, and would be likely to prevent denser zoning in the future once the 3 waters constraints in the area are resolved.

2.3.14.1.6 Decision and reasons

- 1432. We reject the submission from *Andrew Rutherford (S71.001)* seeking residential zoning for RS170. We accept the evidence of Mr Morrissey that, while generally consistent with Policy 2.6.2.1, there are significant 3 waters servicing issues for this site that are not anticipated to be resolved in a suitable timeframe to support rezoning. We also note Ms Christma's evidence that enabling Large Lot Residential zoning ahead of resolving the significant 3 waters servicing constraints is not a valid approach under Policy 2.2.4.1, which directs that efficient use of land is to be prioritised.
- 1433. We note our comments earlier in this decision (see section 2.1.4), in relation to Policy 2.2.4.1, on the efficient use of land, and our overall reasons for rejecting Large Lot zoning as a 'temporary' zoning until infrastructure upgrades are complete. We consider it is more appropriate to wait until those upgrades have been undertaken and then reassess locations such as these if and when further urban expansion is being contemplated.
- 1434. We have also considered the possibility of a Residential Transition Overlay Zone (RTZ), to delay development of the land until the upgrades are complete. However, we are cognisant of evidence provided in relation to the nearby site RS171 (see section 2.3.14.2) that wastewater upgrades in this area are unplanned and may take many years to eventuate. We also accept the evidence from Mr Stocker is there is no long-term capacity shortfall so there is no real urgency or necessity to make provision here for RTZ at this stage.

2.3.14.2 3 Brick Hill Road & 18 Noyna Road, Sawyers Bay (RS171)

- 1435. This section addresses the submissions covered in section 5.4.14 of the section 42A report.
- 1436. RS171 is located adjacent to Sir John Thorn Drive (State Highway 88) on the south-eastern side of Sawyers Bay, West Harbour. The 3.4ha site is zoned Rural Hill Slopes and is

surrounded by Township and Settlement, Rural, Industrial, and Rural Residential 1 zoning. The adjacent industrial zoning is occupied by Port Otago Limited and consists mainly of two large warehouse buildings.

1437. The section 42A report states that the site was originally rejected as part of the screening of sites for Variation 2 as its development would exacerbate downstream wastewater overflows.

2.3.14.2.1 Submissions received

1438. *K and L Accommodation Limited (S202.001)*, the landowners, submitted to rezone 3 Brick Hill Road and 18 Noyna Road to Township and Settlement zoning.
1439. *Port Otago Ltd (FS198.1)* opposed the submission due to concerns about reverse sensitivity effects on the adjoining industrial zoned land they occupy, particularly in relation to noise and lighting emissions from their operation which are likely to lead to complaints if the land is developed for residential activity. Port Otago noted that the land is unsuitable for rezoning due to lack of wastewater capacity. It also commented that 18 Noyna Road is identified as a HAIL site associated with the former tannery land use in this location, similar to land to the north of the Sawyers Bay warehouse site, which is subject to a consent notice preventing any residential use.
1440. *Elizabeth McColl (FS86.1)* opposed the submission seeking rezoning as she considered that the effects of rezoning would be more than minor and opposed the suggestion that infrastructure upgrade costs should be carried by ratepayers. *Ms McColl* also noted that stormwater currently flows from sloping terrain in the area and ponds on neighbouring property and at the entrance to 18 Noyna Road. *Ms McColl* noted concern about additional traffic on Noyna Road, a single lane road that services seven other properties, and the impact of this on safety of the intersection of Noyna Road with State Highway 88.
1441. *Debbie and Aaron Jowsey and Ward (FS73.1)* opposed the submission and raised concerns in relation to traffic on Noyna Road, appropriate management of stormwater and the need for the developer to be responsible for infrastructure upgrades. They also noted that the site may contain contaminated land and are concerned about possible stability issues on 20 Noyna Road. They were concerned that building heights and light pollution will affect their residential amenity and views, and that the development might displace native birds from the area.

2.3.14.2.2 Submitter's response to the section 42A report

1442. In his evidence on behalf of *K and L Accommodation Limited*, Mr Sycamore attended the hearing and provided a concept plan for the site. That showed development of 34 lots along with an area for stormwater attenuation, immediately adjacent to the Port Otago facility. Access would be via Brick Hill Road with a pedestrian linkage through to Noyna Road. Having reviewed the concerns outlined in the section 42A report, Mr Sycamore suggested application of a Residential Transition Overlay Zone to the site, rather than immediate rezoning, because it would allow the site to transition to residential zoning once infrastructure constraints for the site are resolved.

2.3.14.2.3 Hazards

1443. A report by Stantec provided as part of the section 42A report noted that it had assessed the site in late 2020 as having low level hazards associated with alluvial materials on the site,

and with flood hazard/stormwater flow. Stantec commented that active alluvial materials are typically mitigated with engineering design, and this is typically a building control issue that is not a limiting factor for subdivision. Stantec also noted that some stormwater design and management may be required to develop the site. However, overall, it advised that typical engineering design can be applied to the proposed area with some consideration to stormwater flow paths.

2.3.14.2.4 Landscape and biodiversity

- 1444. Mr McKinlay assessed the site and commented that rezoning would have moderate– high adverse visual amenity effects on existing residents within the rural residential area, and from nearby sections of Brick Hill Road. He considered that the effects on wider rural character values would be limited. Mr McKinlay considered that, if rezoning were to proceed, consideration should be given to retaining the poplar shelterbelt along the southern boundary of the site as a form of visual mitigation.
- 1445. The section 42A report stated that no indigenous biodiversity values were identified on the site.

2.3.14.2.5 Transport

- 1446. Mr Watson, DCC Transport, noted that Noyna Road would need to be upgraded to the standards set out in the Dunedin Code of Subdivision 2010 if used for access, including a footpath extension. Waka Kotahi would need to be consulted in relation to the intersection with the state highway. Brick Hill Road joins Stevenson Avenue over a narrow bridge and there is no footpath on Stevenson Avenue east of the bridge. If rezoned, the developer would need to extend the footpath. DCC Transport also noted that traffic distribution from the development would require careful consideration as both Brick Hill Road and Blanket Bay Road are narrow and winding roads. Overall, DCC Transport considered that an Integrated Transport Assessment is required to assess the proposed rezoning further.
- 1447. DCC Parks and Recreation department considered that if the site was rezoned, a connection from Noyna Road through to Brick Hill Road should be part of the subdivision design.
- 1448. In his planning evidence on behalf of *K and L Accommodation Limited*, Mr Sycamore noted that the development is proposed to be accessed via Brick Hill Road and a concept plan was provided demonstrating this. This concept plan includes a pedestrian link from the subdivision through to Noyna Road.
- 1449. On behalf of *K and L Accommodation Limited*, Mr Logan Copland of Abley Limited, considered that the site is appropriate for Township and Settlement zoning from a transportation perspective, however several improvement works to the existing transport network are likely to be required. Mr Copland noted there is a narrow bridge located adjacent to the site on Brick Hill Road, and proposed three possible options to deal with this issue with the preferred option being to retain the bridge at its current width and construct a separate pedestrian facility. Mr Copland considered that application of a Residential Transition Overlay Zone was an appropriate mechanism to ensure delivery of the required infrastructure prior to any development occurring.
- 1450. In his response to submitter evidence, Mr Watson said he broadly agreed with Mr Copland, other than his recommended transport option regarding the bridge upgrade. An Integrated Transport Assessment would be required as part of a future subdivision application. Overall,

Mr Watson considered that application of a Residential Transition Overlay Zone would be appropriate from a transportation perspective.

2.3.14.2.6 3 waters

1451. Mr Oliver and Mr Saunders, DCC 3 Waters, advised that in relation to wastewater there are currently overflows at the downstream Sawyers Bay wastewater pumping station in wet weather, with consequent environmental effects. Significant downstream wastewater upgrades are likely to be required which could take many years to resolve. The local potable water supply infrastructure is adequate to service the site, however the supply is constrained during peak summer periods and significant upstream upgrades are required, with an expected timeframe of 5-8 years. Stormwater would need to be managed in accordance with the new development mapped area requirements and, while this should be possible, they had concerns about the affordability of this.
1452. Mr Sycamore acknowledged the 3 waters issues but said that a Residential Transition Overlay Zone applied to the site would ensure that there is appropriate infrastructure capacity available prior to any development occurring. He said the submitter may be able to contribute financially to these infrastructure upgrades.
1453. In their response to submitter evidence, Mr Oliver and Mr Saunders noted that it is unclear from the information whether the proposed stormwater management would meet the new development mapped area requirements.

2.3.14.2.7 Reverse sensitivity

1454. Mr Sycamore said he agreed that reverse sensitivity is potentially problematic at this site. He suggested that a 'no complaints covenant' should be applied to any future subdivision.
1455. Mr Len Anderson (Legal Counsel), Ms Rebecca McGrouther (Port Otago Environment Manager), and Ms Mary O'Callahan (Consultant Planner) attended the hearing on behalf of *Port Otago Limited*. Together, they outlined significant concerns about reverse sensitivity. In summary, *Port Otago Limited* does not consider a 'no complaints covenant' by itself is sufficient to avoid the potential for reverse sensitivity effects. It also has concerns about the submitter needing to rely on existing use rights on its site should the rezoning proceed. Port Otago noted that, if rezoning were to proceed, either the existing industrial noise limits should be retained for the site, or noise abatement measures (e.g. an acoustic wall) are required to be implemented in order to reduce the noise level at the boundary of RS171. It was also noted that the acoustic standards in the 2GP relate only to indoor living, and therefore outdoor living spaces would still be adversely affected. Concerns around light spill risk were also raised.
1456. Subsequent to *Port Otago Limited* speaking at the hearing, Mr Sycamore provided supplementary evidence proposing a 20m set back buffer area on the site from the Port Otago boundary. Additionally, a no complaints covenant, compliance with Rule 9.3.1.1 (acoustic insulation), and a noise standard consistent with Rule 9.3.6.4 were proposed for the entire site. These would permit a higher noise level than is normally allowed.
1457. Mr Anderson in a written response, advised that the proposed Rule 9.3.6.4 would not fully achieve the proposed noise limit of 60 dB in this location. Instead, if the noise limits in Rule 9.3.6.5 applied (that permits noise level limits of 60 dB at night) then the revised proposal from Mr Sycamore would be acceptable.

2.3.14.2.8 Contaminated soils

- 1458. Several of the further submitters raised concerns about the potential for contamination on the site. In the section 42A report, Mr Morrissey noted that 18 Noyna Road is shown as a Hazardous Activities, Industries and Bores Search (HAIL) site.
- 1459. Mr Sycamore noted that a detailed site investigation was carried out by EC Otago, and this confirmed that soils were impacted by tannery waste within a large area primarily within the land against Brick Hill Road, and a localised area of asbestos was identified which was assumed to be building materials waste. The investigation confirmed the majority of the site was suitable for residential use, and that the balance can be remediated to a suitable standard for residential use.

2.3.14.2.9 Reporting Officer's recommendation

- 1460. Mr Morrissey's recommendation was to not rezone the site. This was based primarily on the reverse sensitivity issues and 3 waters constraints. He raised concern with Mr Sycamore's revised proposal in that it is still likely that future residents will be affected by the neighbouring industrial activity particularly when using spaces outside of the dwellings. He also raised concerns about the potential costs associated with monitoring and compliance, and questioned whether the need for a higher noise limit indicated that residential zoning may not be appropriate in this location. He addressed the submitters proposal of a Residential Transition Overlay Zone, and noted that uncertainty remains about the timing and nature of the required wastewater upgrades. While he did acknowledge that 3 Brick Hill Road may be more appropriate for residential development given its distance from the Port Otago facility, his overall view of RS171 is that it is not well aligned with residential rezoning.
- 1461. Subsequent to his Reply, we asked Mr Morrissey in Minute 16 if the rezoning of only the top portion of the land (i.e. part of the site at Brick Hill Road contiguous with the adjacent residential zoned land) could be supported. In his response, Mr Morrissey reiterated his concerns about the long term timeframe to address 3 waters upgrades, and that the proposed noise mitigations would not address noise experienced outside (e.g. in backyards). Overall, Mr Morrissey confirmed that he did not support rezoning any part of the site.

2.3.14.2.10 Decision and reasons

- 1462. We reject the submission from *K and L Accommodation Limited (S202.001)* seeking to rezone RS171 to Township and Settlement zoning.
- 1463. We do not consider that this site is appropriate for residential zoning, based on the potential for reverse sensitivity in relation to the Port Otago facility, and the 3 waters servicing constraints. While we consider that the upper part of the site (i.e. 3 Brick Hill Road) could be more suitable for residential development given its greater distance from the Port Otago facility, the 3 waters constraints over development of the site remain.
- 1464. We agree with the reporting officer that use of a Residential Transition Overlay Zone is not appropriate when there remains uncertainty about the exact works required and therefore the timeframe within which they will be addressed. As noted by the Reporting Officer, if upgrades may take up to 20 years, and if so, there is little benefit to applying a Residential Transition Overlay Zone.
- 1465. In addition, we are cognisant of the planning evidence of Ms Mary O'Callahan for *Port Otago Limited* where she questioned the need to rezone sites such as this (with constraints

regarding reverse sensitivity and servicing) as part of the very focused Variation 2. We agree, and consider this is far from a straightforward site for rezoning under this particular process.

2.3.15 St Leonards

2.3.15.1 147 St Leonards Drive (RS151)

1466. This section addresses the submissions covered in section 5.4.5 of the section 42A report.
1467. The site is a 6.5ha rural-zoned block located towards the north end of St Leonards in West Harbour. The section 42A report notes that RS151 was originally larger and covered both Rural and Rural Residential 1 zoning, however the submitter for the site is now only requesting a small portion of the original site be rezoned to residential. The site is subject to the Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone (SNL). There are no other overlays present. The nearest residential zoning is approximately 700m away from the site. The submitter is also proposing other areas of the site (outside the 6.5ha sought to be rezoned) have an Area of Significant Biodiversity Value (ASBV) overlay applied and be a managed ecological enhancement area to be replanted with indigenous vegetation. The site was originally rejected in the section 32 report due to the SNL and the distance from existing residential zones.

2.3.15.1.1 Submissions received

1468. *David Middleton (S237.001)*, the landowner, sought to rezone RS151 to Large Lot Residential 2, with a structure plan mapped area applied, and an Area of Significant Biodiversity Value overlay applied over another part of the site. The submitter anticipated this would yield approximately 8 – 10 lots which would self-service for potable water and wastewater. A variety of other ecological enhancements were also proposed by the submitter.
1469. Rezoning RS151 was supported in a further submission from *Wirat Mahongchai (FS252.1)*.

2.3.15.1.2 Landscape, and ecological enhancement

1470. The section 42A report stated that residential rezoning would be inappropriate as the site is fully contained within the Flagstaff-Mt Cargill SNL and residential rezoning would be inconsistent with Policy 2.6.2.1.d.iv which requires that Dunedin's outstanding and significant natural landscapes and natural features are protected.
1471. Ms Emma Peters, in her evidence on behalf of *David Middleton (S237.001)*, acknowledged the presence of the SNL and outlined the submitter's vision to provide housing choice in a way which is sensitive to the landscape and biodiversity values of the site. Residential activity would be restricted to identified landscape building platforms, and performance standards are proposed to provide for ecological enhancement and control built form.
1472. Ms Peters noted that Policy 2.6.2.1.d.iv states new residential zoning should "generally avoid" Significant Natural Landscapes, but that is not a total prohibition. Ms Peters considered that Large Lot Residential 2 zoning is appropriate for the location.
1473. Mr Hugh Forsyth, consultant Landscape Architect for *David Middleton (S237.001)* also spoke at the hearing. Mr Forsyth supported the proposed rezoning and advised that the area doesn't particularly stand out in the wider landscape. He noted that the SNL is set by a contour and is not site specific. He also noted that he had provided input into the proposed structure plan controls outlined in Ms Peters' evidence.

1474. In his response to submitter evidence Mr Luke McKinlay, DCC Landscape Architect, commented that the proposed large lot development would be a notable departure from the existing pattern of development and would detract from the consistently rural characteristics of the surrounding hillslopes which form part of the Flagstaff-Mt Cargill SNL. While acknowledging the biodiversity benefits associated with the proposed ecological enhancement works, Mr McKinlay considered that rezoning would have at least a moderate effect on the rural character of the hillslopes.

2.3.15.1.3 Compact city

1475. In the section 42A report, Mr Morrissey considered that rezoning isolated and disconnected pockets of land would result in conflict with Policy 2.6.2.1.d.xi which requires Dunedin stays a compact and accessible city.
1476. In her evidence, Ms Peters commented that consideration of the context of a particular site must be taken into account when considering Policy 2.6.2.1.d.xi. She considered that St Leonards is a popular place to live and there is demand for sections, but limited zoned capacity is available to the market. The topography of St Leonards also means that there are limited areas into which residential activity can expand. Ms Peters outlined the transport links available, and in particular highlighted the shared walking and cycle path currently under construction, and stated that given the local context of St Leonards, rezoning RS151 is appropriate.

2.3.15.1.4 Reporting Officer's recommendation

1477. Mr Morrissey recommended rejecting the submission for rezoning of RS151. While he acknowledged the ecological enhancements proposed by the submitter, he considered that residential zoning would not protect the values of the SNL. He noted Mr McKinlay's view that residential development would detract from the consistently rural characteristics of the surrounding hillslopes. Rezoning would also conflict with the compact city objective, given the site's distance from centres and other community facilities.

2.3.15.1.5 Decision and reasons

1478. We reject the submission of *David Middleton (S237.001)* seeking to rezone RS151. We also reject the further submission of *Wirat Mahongchai (FS252.1)* supporting the rezoning.
1479. We accept the evidence of Mr Morrissey that residential development in an SNL is inconsistent with protecting the landscape values present. We acknowledge the ecological enhancements proposed by the submitter, but do not consider this mitigates the values of the SNL which will be compromised by residential development.
1480. We also accept his evidence that the site has poor connectivity to public transport and other services. While there is a bus stop between approximately 300m and 900m away from the site dependent on direction of travel, access into the site is steep and this will restrict accessibility. We do not consider that zoning this site is consistent with maintaining a compact city.
1481. We also note our earlier comments in relation to use of Large Lot zoning and the efficient use of land, as discussed in section 2.1.4 of this report.
1482. In our view, overall, rezoning the site is inconsistent with these two key aspects of Policy 2.6.2.1, and consequently residential is not the most appropriate zoning for this site.

3 NATIONAL POLICY STATEMENT ON HIGHLY PRODUCTIVE LAND (NPS-HPL)

3.1 Introduction

1483. This section of our decision relates to the new National Policy Statement on Highly Productive Land (NPS-HPL) that was released on 20 September 2022 and came into legal effect on 17 October 2022.
1484. As the NPS-HPL was released following the main hearing held in September 2022, and during the course of our initial deliberations, it was not directly addressed in either the evidence provided by the reporting officers nor by individual submitters at that main hearing in September.
1485. The process our Panel followed to incorporate the relevant NPS-HPL considerations into our decision making is summarised below. More detail is provided in subsequent sections of our decision report.
1486. We sought input from parties on the implications of the NPS-HPL to our decisions through a two-stage process¹⁵. The first stage was to request a report from the DCC reporting officer, and to invite legal submissions from the parties, on which of the Hearing 4 sites are affected by the NPS-HPL. The Panel also requested independent legal advice from Simpson Grierson¹⁶. We then made a determination on which sites we consider the NPS-HPL applies to. That is, which sites have highly productive land, as defined by the NPS-HPL.
1487. As part of the second stage, we requested a further report from the reporting officers, and invited site-specific evidence from the submitters on the implications of the NPS-HPL provisions on our decisions on zoning.
1488. The hearing was reconvened on 21 October 2022 to hear the various legal submissions¹⁷. Mr Michael Garbett, Ms Rebecca Crawford, Mr Derek McLachlan, and Mr Alastair Logan presented. Those counsel were also asked to provide written submissions to capture some additional points and arguments presented at the reconvened hearing.
1489. The hearing was again reconvened on 1 December 2022 to hear the site-specific evidence in relation to the application of the NPS-HPL. Ms Emma Peters and Mr Kurt Bowen presented planning evidence on behalf of submitters, and Ms Emma Christmas and Mr Nathan Stocker presented evidence on planning, and housing capacity, for the DCC.
1490. In order to provide clarity on how the NPS-HPL has influenced our decision making, we have structured this decision report so that:

¹⁵ Minute 17, 30 September 2022. [DCC-Var-2-Minute-17-final-30-Sept-2022.pdf](https://dunedin.govt.nz/dcc-var-2-minute-17-final-30-sept-2022.pdf) (dunedin.govt.nz)

¹⁶ Simpson Grierson, Mike Wakefield and Kat Viskovic, 7 November 2022.

¹⁷ Dunedin City Council, [Legal-Submissions-on-behalf-of-Dunedin-City-Council-in-Response-to-Minute-17.pdf](https://dunedin.govt.nz/legal-submissions-on-behalf-of-dunedin-city-council-in-response-to-minute-17.pdf). Gladstone Family Trust, [Legal-Submissions-on-behalf-of-Gladstone-Family-Trust-RS153,-RS204,-Chain-Hills-Rd-in-response-to-Minutes-17-and-18.pdf](https://dunedin.govt.nz/legal-submissions-on-behalf-of-gladstone-family-trust-RS153,-RS204,-Chain-Hills-Rd-in-response-to-Minutes-17-and-18.pdf) (dunedin.govt.nz). Otago Regional Council, [Response-to-Minutes-17-and-18-from-Otago-Regional-Council.pdf](https://dunedin.govt.nz/response-to-Minutes-17-and-18-from-Otago-Regional-Council.pdf) (dunedin.govt.nz). Emma Peters, [Response-to-Minutes-17-and-18-from-Consultant-Planner-Emma-Peters-on-behalf-of-a-number-of-submitters.pdf](https://dunedin.govt.nz/response-to-Minutes-17-and-18-from-Consultant-Planner-Emma-Peters-on-behalf-of-a-number-of-submitters.pdf) (dunedin.govt.nz). Paterson Pitts Group, [Microsoft Word - 17615 Minute 18 Response.docx](https://dunedin.govt.nz/microsoft-word-17615-Minute-18-Response.docx) (dunedin.govt.nz). CC Otago Limited, Peter Doherty & Outram Developments Limited, [Document - High Court](https://dunedin.govt.nz/document-high-court) (dunedin.govt.nz).

- Section 2.3 contains our decisions and reasons on rezoning without consideration of the NPS-HPL; and
- Section 3 (this section) outlines our findings on the NPS-HPL considerations and indicates whether any of those decisions on sites in section 2.3 have changed in light of our findings on the NPS-HPL considerations.

3.2 Statutory framework of the NPS-HPL

1491. The statutory framework relevant to our rezoning considerations, as derived from several legal submissions, our independent legal advice, and the section 42A Addendum report, is set out below.

1492. The NPS-HPL contains a single objective. Objective 2.1 states:

Highly productive land is protected for use in land-based primary production, both now and for future generations.

1493. Policies implementing this objective are outlined in Part 2.2 of the NPS-HPL. Of particular relevance is Policy 5 which states:

The urban rezoning of highly productive land is avoided, except as provided in this National Policy Statement.

1494. Clause 3.5 of the NPS-HPL outlines how highly productive land in regional policy statements and district plans is identified. Clause 3.5(1) states:

As soon as practicable, and no later than 3 years after the commencement date, every regional council must, using a process in Schedule 1 of the Act, notify in a proposed regional policy statement, by way of maps, all the land in its region that that is required by clause 3.4 to be mapped as highly productive land.

1495. Regional Councils have three years to complete this. In the interim, clause 3.5(7) applies. This clause states:

Until a regional policy statement containing maps of highly productive land in the region is operative, each relevant territorial authority and consent authority must apply this National Policy Statement as if references to highly productive land were references to land that, at the commencement date:

(a) is

(i) zoned general rural or rural production; and

(ii) LUC 1, 2, or 3 land; but

(b) is not:

(i) identified for future urban development; or

(ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.

1496. Clause 3.6 of the NPS provides for exceptions to the strict 'avoid' policy in Policy 5. Clause 3.6 reads:

- (1) Tier and 2 territorial authorities may allow urban rezoning of highly productive land only if:*
 - (a) the urban rezoning is required to provide sufficient development capacity to meet demand for housing or business land to give effect to the National Policy Statement on Urban Development 2020; and*
 - (b) there are no other reasonably practicable and feasible options for providing at least sufficient development capacity within the same locality and market while achieving a well-functioning urban environment; and*
 - (c) the environmental, social, cultural and economic benefits of rezoning outweigh the long-term environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.*
- (2) In order to meet the requirements of subclause (1)(b), the territorial authority must consider a range of reasonably practicable options for providing the required development capacity, including:*
 - (a) greater intensification in existing urban areas; and*
 - (b) rezoning of land that is not highly productive land as urban; and*
 - (c) rezoning different highly productive land that has a relatively lower productive capacity.*
- (3) In subclause (1)(b), development capacity is within the same locality and market if it:*
 - (a) is in or close to a location where a demand for additional development capacity has been identified through a Housing and Business Assessment (or some equivalent document) in accordance with the National Policy Statement on Urban Development 2020; and*
 - (b) is for a market for the types of dwelling or business land that is in demand (as determined by a Housing and Business Assessment in accordance with the National Policy Statement on Urban Development 2020).*
- (4) Territorial authorities that are not Tier 1 or 2 may allow urban rezoning of highly productive land only if:*
 - (a) the urban zoning is required to provide sufficient development capacity to meet expected demand for housing or business land in the district; and*
 - (b) there are no other reasonably practicable and feasible options for providing the required development capacity; and*

(c) the environmental, social, cultural and economic benefits of rezoning outweigh the environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.

(5) Territorial authorities must take measures to ensure that the spatial extent of any urban zone covering highly productive land is the minimum necessary to provide the required development capacity while achieving a well-functioning urban environment.

1497. We note that Dunedin City is currently a Tier 2 territorial authority.

3.3 Interpretation of the NPS-HPL

1498. On 30 September 2022, we issued Minute 17 to all Hearing 4 submitters. In this Minute, we asked the DCC to provide a legal submission to address which sites it assesses as being affected by the NPS-HPL. That was duly provided, and we also received the DCC reporting officer's advice on which of the sites requested for rezoning are affected by the NPS-HPL.

1499. Minute 17 also invited submitters to respond to the DCC's legal submission. The responses are addressed below.

3.3.1 Legal submissions

1500. The legal submissions we received covered a full spectrum of opinions, however the primary legal question on which we received submissions was the interpretation of clause 3.5(7) to the sites in question. The initial legal submissions we received are summarised below.

Dunedin City Council

1501. The DCC's legal opinion was that, firstly, the transitional provisions of the NPS-HPL mean that it applies to land that is zoned Rural and Rural Residential and contains LUC 1, 2 or 3 land. We record that there seemed to be no disagreement from the parties on this.

1502. The DCC legal opinion was that, secondly, the deeming provision does not apply to land identified for "future urban development" or that is subject to a Council initiated plan change to rezone it from general rural to urban or rural lifestyle. In that regard, Dunedin does not yet have a Future Development Strategy in place, and Variation 2 cannot be considered to be strategic planning document based on the relevant definitions.

1503. However, thirdly, the DCC advice went on to say that Variation 2 is exempted by clause 3.5(7)a by virtue of it being a Council initiated plan change. Fourthly, the advice was that the exemption does not extend to land put forward in submissions which Council has not adopted or initiated (i.e. as part of proposed Variation 2 as notified).

1504. The consequence of the DCC legal advice is that where submitters have sought to rezone further areas of rural land that is deemed to be highly productive by the NPS-HPL than the NPS provisions should be considered by the Panel in relation to that land when evaluating whether, in response to submissions, to rezone the land.

Gladstone Family Trust

1505. The legal submissions for Gladstone Family Trust agreed with DCC's submission that Variation 2 is a Council initiated plan change. However, it disagreed with the argument that submitters' sites were not part of the variation. The submission was that, regardless of whether the land has been identified by DCC or by submitters, it is before the Panel because it is in scope of Variation 2. Reasons were provided as to why the submitters' sites could be considered part of the variation including that the variation process, which has been a Schedule 1 RMA process, can change the zoning of that land.

CC Otago Limited, Peter Doherty & Outram Developments Limited

1506. The legal submissions from CC Otago Limited, Peter Doherty & Outram Developments Limited agreed with the DCC submissions that Variation 2 is not a Future Development Strategy or strategic planning document as defined. However, it fundamentally disagreed with the DCC's position arguing that the 'site' advanced for rezoning by these submitters is currently subject to the Variation 2 process which has been initiated by DCC, and that it has been determined that the site is within the scope of Variation 2.
1507. It was also argued that it is artificial to read clause 3.5(7)(b)(ii) to be limited only to sites as identified within the 'notified version' of plan change, whereas the clause does not limit itself in this way. To limit its scope in this way to only the notified version of the plan change would be inconsistent with the treatment of 'notification' as a procedural step within Schedule 1 of the Act. The important factor is said to be that 'at the date of commencement' there were live submissions seeking rezoning of the Site from rural to urban.

Otago Regional Council

1508. The legal submission for Otago Regional Council was that it agrees the NPS-HPL does not apply to land proposed by the DCC in Variation 2 for rezoning, but that it does apply to those parts of the submitters' sites which contain highly productive land as those sites were not promoted by DCC in Variation 2 for rezoning. Further it emphasised there is an obligation to implement the NPS provisions rather than to treat them as relevant, or strong, "considerations".
1509. Mr Logan for Otago Regional Council also raised a matter at the reconvened hearing that differed from his written submissions. He essentially questioned whether Variation 2 was a 'plan change' in terms of the NPS. This is further addressed below.

Further legal submissions

1510. Following the hearing reconvened on 21 October 2022, and in response to Minute 20, further legal submissions were received, which are briefly summarised for the following parties as follows:
1511. *Otago Regional Council* – there is no definition in the RMA of 'plan change', and in studying other relevant definitions the argument was made that the 2GP is not a 'plan'; it is not an operative plan approved by DCC under Schedule 1 of the RMA; and Variation 2 is an alteration under Clause 16A of the First Schedule to a proposed plan (the 2GP). Therefore the exception in clause 3.5(7)(b)(ii) does not apply because there is a 'Variation' and not a 'plan change'.
1512. *Gladstone Family Trust* – to emphasise that clause 3.5(7)(b)(iii) sets out alternatives, i.e. that it may be either "a council initiated or an adopted" plan change. In that context, adoption does not relate to a Council resolution in relation to a particular proposal, and instead it

identifies that the plan change must be “Council driven” to qualify. The submission was further that the enquiry is about the status of the land on the NPS commencement date, on 17 October 2022, at which date the submissions had been lodged and were being considered as part of Variation 2.

1513. This further legal submission was also that Variation 2 is a ‘plan change’ for the purposes of the NPS-HPL. It noted that whilst that term is not defined the provisions of the 2GP became operative under section 86F and as such they became part of a single operative plan to satisfy subsection (b) of the definition of ‘district plan’ in the RMA. Further, under Clause 16A a variation is treated as a change in the Schedule 1 process.
1514. *CC Otago Limited, Peter Doherty & Outram Developments Limited* – to emphasise that all sites that are identified within Appendix 4 of the section 32 report are ‘subject’ to Variation 2. In this way there are no ‘rogue sites’ sought by submitters, and any unmeritorious sites have also been addressed through the Commissioners’ decision on scope. This further legal submission also made references to the definition of ‘operative’ and the need to carry out a dynamic assessment of whether the plan has become ‘operative’ or not. In essence, it agreed with the Gladstone Family Trust arguments with respect to Variation 2 being able to be considered as a plan change.
1515. *Dunedin City Council* – the revised legal advice was in essence to agree with ORC’s further legal submissions to the effect that Variation 2 has the status of a variation and is not treated as a plan change as defined. This was based on the NPS identifying that where terms are not defined in the NPS the definitions in the RMA apply unless otherwise specified. In that sense the 2GP has not yet been approved by DCC under clause 17, Schedule 1. It was submitted that all of the sites covered by LUC 1-3 that have a rural zoning need to be assessed against the NPS-HPL (i.e. including the sites notified by DCC in Variation 2).

Independent legal advice to the Panel

1516. The Panel received legal advice from Simpson Grierson, following its review of all the legal submissions and further submissions summarised above.
1517. That advice was as follows:
- (a) The purpose of clause 3.5(7) supports the interpretation that Variation 2 is a ‘plan change’;
 - (b) The Schedule 1 provisions support the interpretation that a variation is part of a plan change; and
 - (c) The exception in clause 3.5(7)(b)(iii) does not apply to land identified in submissions, as submissions do not have any legal effect and they do not (substantively) form part of the plan change initiated by the Council.

3.3.1.1 Determination on legal submissions

1518. We acknowledge there was a wide range of legal advice received and note also that, even during the course of us hearing, some of the counsel changed their views and presented different opinions to us as part of the further submission process. The matter therefore may be considered somewhat complex due in no small part to the NPS provisions being very new and untested at the time of our deliberations.

1519. As advised in our Minute 21, issued on 7 November 2022, having considered all the legal submissions we favoured the advice prepared by Simpson Grierson. Having reconsidered the updated legal submissions, that is still our view. In essence, the Panel favours the advice which applies a broad and holistic approach to determine the purpose of all of the relevant legal provisions and essentially applies what we consider is a common sense approach to it all.
1520. To confirm, our determination is that we favour the following interpretation:
- (a) Variation 2 is a 'plan change' as referred to in clause 3.5(7) of the NPS-HPL, and therefore that clause will apply; and
 - (b) The sites requested for rezoning by way of submissions (that were not proposed for rezoning in the notified version of Variation 2) do not fall within the exception in clause 3.5(7) of the NPS-HPL.
1521. Based on this interpretation, it is our view that the sites in Table 2 below contain highly productive land (HPL), and therefore that the NPS-HPL applies to them. These are the sites identified by Mr Morrissey¹⁸ that contain land that is LUC 1, 2 or 3, are rural-zoned, and were not proposed to be rezoned to residential in the notified Variation 2 (that is, they were proposed for rezoning through submissions).

Table 2 - Sites affected by the NPS-HPL

Address	Site ID	Site Area (m ²)	Area of HPL (m ²)	Percentage of site with HPL
Freeman Cl, Lambert St, Abbotsford	RS14	545,850	537,427	98%
119 Riccarton Road West	RS109	17,924	17,924	100%
RS153: 77, 121 Chain Hills Road, part 100 Irwin Logan Drive, 3-20 Jocelyn Way, 38 and 40-43 Irwin Logan Drive, 25-27 Pinfold Place	RS153	653,000	127,553	20%
91 and 103 Formby Street, Outram	RS154	42,798	40,977	96%
155 Scroggs Hill Road	RS160	640,968	1,586	0.2%
85 Formby Street, Outram	RS175	59,965	58,996	98%
774 Allanton-Waiholā Road	RS195	551,874	539,213	98%
489 East Taieri-Allanton Road, Allanton	RS200	86,102	70,722	82%
170 Riccarton Road West	RS212	83,477	83,477	100%

¹⁸ Reporting Officer's Reply on Minute 15, 16, and 17 from the Panel. 6 October 2022. [Reporting-Officers-Reply-on-Minute-15_16_17.pdf \(dunedin.govt.nz\)](#)

3.3.2 Other submissions received on the NPS-HPL

1522. We note that several other submitters provided responses to Minute 17 which were not legal submissions. While not specifically requested by us, we briefly note those responses here.
1523. *Ms Alice Maley, Mr Christopher Girling, Ms Margaret Henry, and Susan and Donald Broad* all submitted in support of the NPS-HPL, and specifically its relevance to the two RS sites located in Outram (RS175 and RS154). All these submitters considered that the Outram sites should not be rezoned, due to conflict with the new NPS-HPL.
1524. We also note that the tenor of those responses generally reflects evidence provided by the submitters in the September hearing.

3.3.3 Is rezoning of the HPL sites consistent with the NPS?

1525. Ms Christmas provided a section 42A Addendum report on 15 November 2022, addressing the relevant considerations of the NPS-HPL for those affected sites identified in the Table above. She explained that Policy 5 requires that urban rezoning of HPL (that is, zoning land to Residential) must be avoided, unless the NPS-HPL provides otherwise. Clause 3.6 outlines the tests that must be met to allow urban rezoning of HPL. This contains three clauses, a, b and c, which must all be met to allow rezoning to occur. Clause 3.6 is outlined above (in section 3.2 of this Decision Report).
1526. In relation to clause 3.6(1)(a), Ms Christmas stated that there is sufficient housing capacity over the short, medium, and long term, based on evidence provided by Mr Stocker. This showed, based on an update of the modelling undertaken for the Housing Capacity Assessment 2021 (HBA), that there is sufficient housing capacity across the city as a whole for the short, medium and long term, as well as in the individual 'catchments' in which the sites fall (we discuss the use of catchments in the HBA in section 2.1.1 earlier in this report). Consequently, Ms Christmas' opinion was that none of the sites can pass clause 3.6(1)(a).
1527. In relation to clause 3.6(1)(b), Ms Christmas considered it highly likely that there are other reasonably practicable and feasible options for providing additional development capacity that achieves a well-functioning urban environment, rather than needing to rezone the RS sites in question. She noted Mr Morrissey's assessment of the relevant RS sites (as part of the main hearing) and highlighted that he had not recommended any of them for rezoning due to various conflicts with Policy 2.6.2.1, including conflict with the compact and accessible objective, distance from centres, facilities and public transportation, and hazard issues. In her view, clause 3.6(1)(b) is not met for the sites in question.
1528. In relation to clause 3.6(1)(c), Ms Christmas noted that no cost-benefit analysis has been undertaken for most of the sites. We note that an assessment of RS14 was included in the Section 32 Assessment reporting, and an economic cost/benefit assessment was supplied for RS212 during the hearing. Ms Christmas noted that all the other sites have issues (costs) associated with them and were not recommended for rezoning by Mr Morrissey. Without more information and analysis, she did not consider it was possible to conclude that the benefits of rezoning outweigh the costs, and clause 3.6(1)(c) is therefore also unable to be met for any of these sites.
1529. Overall, Ms Christmas concluded that none of the sites met the criteria in 3.6(1) and therefore, as required by the NPS-HPL, rezoning should be avoided.

1530. Ms Christmas also provided additional comment on the sites that partially contain HPL. Her view was that while the NPS-HPL does not preclude rezoning the non-HPL parts of the site, to do so would generally result in a poor planning outcome (e.g. an isolated piece of residential-zoned land) and in all cases, rezoning of the entire site had not been recommended by Mr Morrissey.
1531. The ORC provided a statement¹⁹ that they agreed with and supported the evidence of Ms Christmas.
1532. Mr Kurt Bowen and Ms Emma Peters also provided planning evidence on behalf of a number of submitters. Both repeated concerns raised previously about the accuracy of the HBA. In particular, the inability for the submitters to have been able to review the modelling undertaken and that the model relies on house prices increasing. They stated that any doubts about the HBA assumptions and its conclusions must be read in favour of the view that more land is required to give effect to the NPS-UD. They also disputed the use of catchments as representing the 'same locality and market' in terms of clause 3.6(1)(b). It was noted that some catchments are very large and, for example, that for the 'Outer Urban' catchment, Port Chalmers could not realistically be considered to be in the same locality as Brighton. They also made note that the sites in question represented the only option for providing additional capacity in that particular geographic location, and therefore can satisfy clause 3.6(1)(b).
1533. Mr Bowen identified that clause 3.10 of the NPS-HPL may provide a pathway to enable 'use' or 'development' of the land, outside of clause 3.6. Both Mr Bowen and Ms Peters identified site specific matters, for example property size, existing consents for residential dwelling, flooding risk and slope that in their opinion reduced the primary productivity potential of the sites. Some of this repeated or drew on evidence received in the September hearing.
1534. In her Reply, Ms Christmas called on Mr Stocker to address matters relating to the HBA. Mr Stocker provided an overview of the HBA, and reiterated his earlier statements that there is a surplus of capacity. He also spoke to his earlier evidence which outlined the information that had been provided to the submitters to enable their consultants to understand the model and the reasons for not releasing the requested site specific information to the public. These being matters related to potential privacy breaches, commercial competitiveness advantage and reiterating that site level information may not be accurate as the model works to create accuracy by aggregating data (the 'overs and unders') to be accurate at the aggregate level. He also reiterated that the external peer review of that work had been positive and had commented favourably on the transparency of the model, and the position on release being aligned to that of other councils.
1535. Ms Christmas then discussed the use of catchments. She noted clause 3.6(3) of the NPS identified that "*in the same locality and market*" means in or in close to a location where demand has been identified through a housing and business assessment. Whilst the HBA uses catchments to identify capacity, she acknowledged that we could take a narrower view of locality, provided we had regard to Mr Stocker's comments that demand on a scale smaller than catchment size is very difficult to determine, and there is no requirement in the NPS for Urban Development (NPS-UD) to provide for capacity at a fine-grained scale.
1536. Ms Christmas and Mr Stocker also discussed the results of the DCC's housing demand study which, based on a statistically representative sample, did not indicate people take a narrow

¹⁹ Otago Regional Council, letter dated 22 November 2022. [Otago-Regional-Council.pdf \(dunedin.govt.nz\)](#)

view of where they would choose to live (i.e. down to the individual settlement scale as suggested by Ms Peters) but rather the results indicate people are often flexible in terms of location. Mr Stocker gave the raw results provided from the residents from Outram that were surveyed to illustrate this. They also discussed that affordability rather than location may be a reason why some people choose to live in outer locations such as Allanton.

1537. Finally, Ms Christmas drew our attention to the requirements of clause 3.6(1)(b) and noted it requires that “there are no other reasonably practicable and feasible options for providing at least sufficient development capacity within the same locality and market while achieving a well-functioning urban environment”. She emphasised that the assessment of alternatives is not limited to those in play through Variation 2 and that this requires an assessment of alternatives in the broader sense, for which there was no evidence provided by submitters.
1538. She also emphasised the need to undertake an assessment against the criteria of a “*well-functioning urban environment*” and drew our attention to Mr Morrissey’s assessment against the 2GP strategic directions which have several overlaps with these criteria. She noted that failure to meet those criteria formed part of the basis for his recommendation to not rezone these rejected sites. Ms Christmas considered it was likely there would be alternatives in the same locality and market (for example in Mosgiel) that better met these criteria if additional capacity was required.
1539. With respect to Mr Bowen’s suggestion about the use of clause 3.10, Ms Christmas stated this clause is not relevant as it explicitly relates to situations where subdivision, use and development is not otherwise enabled under clauses 3.7, 3.8 or 3.9. It does not relate to urban rezoning (i.e. the focus of Hearing 4), which is governed by clause 3.6.

3.4 Evidence in relation to submitters’ sites that have HPL

1540. Ms Peters provided evidence relating to the two sites located in Allanton (RS195 and RS200), Mosgiel (RS212, RS153), and the two Outram sites (RS154 and RS175). In all cases, she considered that each component of clause 3.6(1) can be met. She discussed clause 3.6(1)(a) for all the sites and raised perceived issues with the HBA as outlined above. She considered that clause 3.6(1)(b) is also satisfied for the sites, and there is no other development capacity within the ‘same locality and market’ for the various sites. She also noted the high demand for the various areas, and in some cases limited alternative options for providing capacity in the area. For all sites, she noted they had limited potential for primary production, and that they could also satisfy clause 3.6(1)(c).
1541. Ms Peters also provided evidence relating to RS160 (Scroggs Hill). She highlighted the very small area of HPL within this site and noted that, should the site be rezoned, the small area of HPL would be included in a record of title with an identified building platform situated outside of that small area to ensure that no residential activity occurs on the HPL land.
1542. Mr Bowen provided evidence relating to RS109 (Riccarton Road, Mosgiel). He stated the site is of such a small size (1.74ha) that it is unable to be used effectively in primary production, which should be a relevant consideration under the NPS-HPL. On questioning Mr Bowen explained this site may not meet the other relevant criteria for assessment under the NPS provisions.
1543. Mr Bowen provided evidence relating to RS14 (Abbotsford) and noted this was also provided on behalf of Ms Peters. He also discussed the Property Economics and Beca report, which included an assessment of RS14, and noted that rezoning this site was assessed as having a

‘lower impact’ based on relative economic costs. He lastly noted that one of the component land parcels of RS14 is of a small size (2.66ha), and stated consideration on the application of the NPS-HPL should be given to sites like this, of a limited site area.

1544. In her Reply, Ms Christmas responded directly to a number of the site-specific points made by Mr Bowen and Ms Peters. Overall, she maintained her original recommendations that residential rezoning of any of the NPL parts of the relevant sites is contrary to the NPS-HPL.

3.5 Conclusions on evidence

1545. Overall, we agree with and accept the evidence of Ms Christmas on the application of the relevant provisions of the NPS-HPL to the RS sites in question. We agree with Ms Christmas that the NPS-HPL directs that the residential rezoning of any part of a site that constitutes HPL is to be avoided unless all three criteria in clause 3.6(1) apply. We accept Mr Stocker’s evidence, consistent with our conclusions in section 2.1.1 above, that there is sufficient residential capacity within Dunedin for the short and medium terms considering both the City as a whole, and in relation to the specific catchments into which the HPL sites fall. Consequently, it is our view that 3.6(1)(a) is not met for any of the RS sites.
1546. We consider the concerns expressed from submitters regarding the veracity of the model are unfounded, noting in particular the favourable response from the peer review by Ministry for the Environment. In addition, we acknowledge the large area of some of the catchments, but we accept the evidence of Ms Christmas and Mr Stocker on this, as summarised above.
1547. On this basis, we do not need to consider clauses 3.6(1)(b) and (c). However, for completeness, we also agree with Ms Christmas’ assertion that it is highly likely that there are other reasonably practicable and feasible alternative options for providing housing capacity within the same locality and market. We note there is a surplus in the outer urban, Mosgiel and outer suburbs catchments.
1548. We do not accept Ms Peters’ argument that the Outram and Allanton sites are the only options for providing additional capacity in those localities and markets. We are cognisant of the requirement that our decisions must achieve a well-functioning environment. We consider that Mosgiel provides a reasonably practicable alternative option which better meets the well-functioning environment test, if additional capacity was needed (which from the DCC evidence it is not). Any evidence raised by the submitters to counter that appeared largely anecdotal and not rigorously assessed. Similarly, we consider that the same response could be applied to the other sites on the periphery of Mosgiel (e.g. RS109, RS212, RS153), i.e. Mosgiel itself provides a reasonably practicable alternative option.
1549. We agree that clause 3.10 is not relevant for decisions on residential rezoning, and that it does not provide a valid alternative pathway for the urban rezoning of highly productive land. It may be the case that this clause provides a pathway for subsequent resource consent processes, but we note Ms Christmas advised that it would likely to require a non-complying activity process for developing rural zoned sites. We have therefore not considered Mr Bowen’s assessment of RS14 in terms of clause 3.10 any further.
1550. In relation to sites that are only partially affected by HPL, we have considered whether it is appropriate to rezone the non-HPL parts. For this, we have returned to our original assessment of these sites (see section 2.3 – decisions on individual sites). We have heard

nothing that changes these conclusions - that in all cases, zoning is inconsistent with Policy 2.6.2.1 and is not appropriate.

3.6 Impacts on decisions

1551. As outlined previously, our decisions outlined in section 2.3 of this report were made separately without applying any assessment of the NPS-HPL.
1552. However, in order to give effect to the NPS-HPL we have outlined in this section how the NPS-HPL affects those decisions already outlined in section 2.3.
1553. Firstly, we note that for all of the RS sites affected by the NPS-HPL (RS14, RS109, RS153, RS154, RS160, RS175, RS195, RS200, RS212), our decision in section 2.3 is to reject the submissions seeking rezoning as we do not consider the sites are suitable for residential zoning when assessed against the relevant (non-NPS-HPL) criteria.
1554. We have subsequently concluded that rezoning the HPL parts of these sites is also contrary to the NPS-HPL provisions, and to zone them would not be consistent with s75(3), the requirement for a district plan to give effect to any national policy statement.