



APPLICANT'S RIGHT OF REPLY

**WESTACOTT HEIGHTS RESIDENTIAL DEVELOPMENT
SUB-2015-54 AND LUC-2015-291**

22 MARCH 2016

Prepared by Kurt Bowen

Introduction

This right of reply addresses a number of the issues raised by submitters and Council staff during the course of today's hearing. In an attempt to keep this reply concise and to the point, this document does not address every concern raised at the hearing. It should be appreciated that where a concern or issue is not specifically addressed in this reply, the applicant's position is that the relevant matter does not present an effect that is considered beyond minor.

Planning Matters

1. An important consideration of the Committee will be the relevant and application of planning matters in respect of the proposed development, including the objectives and policies of the operative Plan, environmental effects and s104D RMA, and the possibility of a precedent being set should consent be granted.

Objectives and Policies of the Operative Plan

2. The objectives and policies of the Dunedin City District Plan have been considered by the applicant and by Council's planner. Both of these assessments have concluded that the proposed activity is not contrary to the objectives and policies, although it is recognised that some inconsistencies do exist. Of particular relevance to this application are the objectives and policies which relate to the Sustainability and Rural sections of the Plan, and these are expanded upon below.
3. There are 5 objectives contained in the Sustainability section of the Dunedin City District Plan.
4. Objective 4.2.1 seeks to enhance the amenity values of Dunedin. This specifically includes:
 - a) the spaciousness and separation of activities in the rural area,
 - b) heritage values throughout the City
 - c) urban and rural landscapes
 - d) natural and recreation areas.

Of these noted inclusions, the proposed development is considered to be particularly consistent with the latter three items – heritage features will be preserved and made more accessible (dry stone walls), urban and rural landscapes will be more clearly defined and existing inconsistencies between land use and zoning will be recognised, and natural and recreation areas will certainly be enhanced. In respect of the first item in the noted inclusions, the applicant considers the proposal is inconsistent with this. The application is not considered contrary to this objective due to the fact that the rural area at this location is not presently reflective of the form of rural areas as anticipated by the Plan.

5. Objectives 5.2.2 and 5.2.3 seek to provide suitable infrastructure and to sustainably manage infrastructure. The application is certainly consistent with both of these

objectives, and in fact could be considered to be more than consistent on the basis that the application land has already been allocated full town reticulated services, of a nature that would be expected to support reasonably intensive residential development. The granting of consent would enable this infrastructure to be utilised closer to its recognised potential.

6. Objective 4.2.4 seeks to protect significant natural and physical resources. Again, the application is consistent with this objective. The existing native bush and Frasers Gully watercourse system will be fundamentally protected as a result of the proposed activity being implemented. This poses a significant benefit, in terms of ecological and conservation ideals, to the City, and this is specifically recognised by the comments made by Council's landscape architect. Conversely, the applicant accepts that there may be an adverse effect to the rural land resource as a result of this application, however this is considered to be slight due to the already compromised nature of the application land and is, in the applicant's view, well and truly outweighed by the benefit that the city will gain through vesting to Council ownership of the various reserve areas.
7. Objective 4.2.5 refers to the development of a suitable planning framework, and is of little direct relevance to the proposal at hand.
8. There are 10 policies contained in the Sustainability section of the Dunedin City District Plan.
9. Policy 4.3.1 supports the maintenance and enhancement of amenity values. This policy specifically includes both urban and rural areas. The application is considered consistent with this policy as the finished product will enhance the urban amenity values of the City, albeit accepting that the land's rural amenity values may be reduced. Given however that the existing rural amenity is already compromised by the built and consented residential land use activities, the applicant submits that the enhancement of the City's urban amenity as a result of this proposal will outweigh the reduction of the City's rural amenity.
10. Policies 4.3.2 and 4.3.5 deal with infrastructure matters. The application is consistent with these policies for the reasons noted under paragraph 5 above.
11. Policy 4.3.3 looks at urban renewal matters and does not apply to the proposed activity.
12. Policy 4.3.6 seeks to provide access to natural and physical resources. The proposal is significantly consistent with this policy. Establishing public access to the proposed reserve areas is a fundamental objective of the proposed development and this is clearly apparent in the application documents.
13. Policy 4.3.7 discusses the use of zoning to provide for compatible land uses. This policy is considered to be of limited relevance as the existing zoning format departs

significantly from the existing and consented land use activities. The application cannot be said to be either consistent or inconsistent with this policy.

14. Policy 4.3.8 seeks to avoid the indiscriminate mixing of incompatible uses and developments. The application is considered inconsistent with this policy. There are already a mixture of land uses occurring within the application land and surrounds, and many of these activities vary from the provisions of the underlying zones in which they exist. The proposed activity will introduce higher levels of residential activity than presently exists, however the applicant does not consider this to be incompatible with the surrounding environment for reasons that i) the existing and consented situation is already significantly residential in nature, and ii) suitable mitigation measures have been proposed as part of the application to manage the anticipated adverse effects.
15. Policy 4.3.9 and 4.3.10 require consideration of those uses and activities which could give rise to adverse effects and encourages a holistic approach to assessing such effects. These are procedural requirements (which are currently occurring) and as such the application is considered to be consistent with these policies.
16. Overall, in respect of the Sustainability section of the Dunedin City District Plan, the applicant feels justified in the conclusion that the application is not contrary to any of the relevant objectives and policies.
17. There are 7 objectives contained in the Rural section of the Dunedin City District Plan.
18. Objection 6.2.1 seeks to maintain the ability of the land resource to meet the needs of future generations. The explanation attached to this objective states that the most significant long term use is primary production. In this regard the proposed development is considered inconsistent with, but not contrary to, this objective, for the reasons that the application land is already compromised to the point at which it cannot realistically hope to satisfy useful primary production. None of the 5 properties contained in the application land are consistent with parcel areas anticipated in the Rural Zone (15 hectares) and 3 of these 5 properties also fail to meet the parcel areas anticipated in the Rural-Residential Zone (2 hectares). Furthermore, in the immediately surrounding environment there is another 6 properties that also fail to meet the anticipated parcel area of either zone. Putting aside the Rural section of the Plan for a minute, the applicant considers that the proposed development will indeed enhance the ability of the land resource to meet the needs of future generations, but that this can best occur through the provision of a higher density of residential activity than by way of rural processes – this is consistent with the objectives and policies of the Sustainability section. The objective's explanation goes on to state that it will be necessary to ensure that the spread of residential activity into the rural areas of the City is carefully managed. The application is considered consistent with this requirement.

19. Objective 6.2.2 seeks to maintain and enhance the amenity values associated with the character of the rural area. This objective specifically includes:

- a) the predominance of natural features over human made features,
- b) the high ratio of open space relative to the built environment,
- c) significant areas of vegetation in pasture, crops, forestry and indigenous vegetation,
- d) presence of large numbers of farmed animals,
- e) noises, smells and effects associated with the use of rural land for a wide range of agricultural, horticultural and forestry purposes,
- f) low population densities relative to urban areas,
- g) generally narrow unsealed roads,
- h) absence of urban infrastructure.

In consideration of the above items, the applicant considers that the matters noted in (a), (b), (d), (e) and (f) presently exist only in a relatively limited nature at present. This is because of the way in which the application property has previously been adapted to provide for a higher density of residential activity within many of its component sites than is anticipated by the Dunedin City District Plan under the applicable Rural Zone and Rural-Residential Zone provisions. As a result of this adaptation, much of the subject land is not able to contain a form of land use that one would typically associate with the rural environment of the City, and this makes it impossible to usefully apply the expectations of this objective. The application is considered to support item (c) in the above list as the existing indigenous vegetation on the subject land will be better protected as a result of the proposed being implemented. Items (g) and (h) are also considered in line with the proposed activity as the existing infrastructure has been assessed as being able to support the higher density of residential activity than currently exists.

20. Objective 6.2.3, relating to rural residential development and various constraining elements, is not directly relevant to the application at hand.

21. Objective 6.2.4 deals with the sustainable management of infrastructure. The application is considered consistent with this objection for reasons previously discussed.

22. Objective 6.2.5 seeks to avoid or minimise conflict between different land use activities. As with the rural amenity and character considerations, the same reasoning can be applied to this objective. Essentially, as the existing landscape does not reflect the type of rural activity anticipated by the Plan, and because it is unlikely to be able to do such in future the applicant believes that the possibility of a conflict as imagined by this objective is significantly reduced. Furthermore, when this consideration is combined with the proposed mitigation measures, such as boundary and on-site planting and low reflectivity dwellings, it is reasonable to suggest that the application has successfully minimised the potential for conflict between different land use activities. On this basis, the application, while perhaps being inconsistent, is not considered contrary to this objective.

23. Objective 6.2.6 seeks to maintain and enhance the life-supporting capacity of land and water resources. As discussed above, it is the applicant's view that the productive capacity of the subject land, and in fact much of the surrounding land, has already been severely compromised through previous development processes. Without re-stating the same justifications, the applicant is confident that the best use of the land, when taking into account its present state, is in support of higher density residential activity. This is consistent with the considerations of Sustainability section. For these reasons, the application is considered inconsistent with, rather than contrary to, this objective.
24. Objective 6.2.7 seeks to enhance the natural character and amenity of the margins of water bodies. The application is consistent with this objective and the proposed activity is indeed expected to result in the enhancement of the on-site gully watercourse system.
25. There are 16 policies contained in the Rural section of the Dunedin City District Plan. The content of the majority of these policies reflect the objectives above, and further discussion in this document would be repetitive. The Committee will undoubtedly be able to translate the applicant's comments from above to match the relevant Rural section policies. However, several policies of particular relevance are discussed below.
26. Policy 6.3.2, dealing with sustaining productive capacity, is slightly unusual in this section of the Plan as it restricts its attention to the Rural Zone (rather than the rural environment which would include both the Rural and Rural-residential Zones). As the existing land use activity significantly departs from the provision of the Rural Zone, it is difficult to reach a conclusion whereby the application would be contrary to this policy.
27. Policy 6.3.3 seeks to discourage land fragmentation and the establishment of non-productive uses of rural land and to avoid potential conflict between incompatible and density land uses by limiting the density of residential development in the Rural Zone. The fact is that this has already occurred to a significant level and is not likely to ever be undone. The Committee will need to consider whether further development of an already compromised landscape is acceptable in respect of this policy, and this consideration will no doubt be intertwined with the matters of sustainability and the applicant's submission that the proposed activity offers the best possible use of the land resource. The applicant considers that the application is not contrary to this policy, but acknowledges that it is certainly inconsistent.
28. Policies 6.3.5 and 6.3.6 both encourage the implementation of measures to avoid, remedy or mitigate adverse effects of subdivision and land use activities. The applicant has included a full package of mitigation measures, many of which have been included as a result of taking into account the concerns of the local community, and it is considered that these elements of the proposed activity, combined again with the understanding that the existing situation is not reflective of an anticipated

rural environment, which enables the applicant to view the application as being consistent with these policies in respect of the mitigation requirements.

29. Overall, in respect of the Rural section of the Dunedin City District Plan, the applicant feels justified in the conclusion that the application is not contrary to any of the relevant objectives and policies. There are certainly a number of inconsistencies in terms of the Rural section, and these are predominantly justified by way of consideration of the existing and consented property structure and land use. When both the Rural section and Sustainability section are considered together, as must occur to achieve a full and complete assessment, the applicant feels strongly that the best and most appropriate use of the land resource at this location is that of low density residential activity, as proposed by the application.

Existing Situation

30. It may help the Committee to define the existing situation in greater clarity. The site and surrounding Rural Zone comprise the following properties (with areas noted)-

Application Land:

Lot 2 DP 470050:	1.95Ha
Lot 5 DP 470050:	2.29Ha
Lot 7 DP 470050:	4.82Ha (10.32Ha)*
Lot 9 DP 470050:	0.49Ha
Lot 10 DP 470050:	0.96Ha

Adjoining Land within the Rural Zone:

Lot 3 DP 470050	0.39Ha
Lot 4 DP 470050	0.39Ha
Lot 6 DP 470050:	0.25Ha
Lot 8 DP 470050:	0.38Ha
493 Taieri Road:	0.58Ha
31 Dalziel Road:	2.00Ha
53 Dalziel Road:	0.38Ha

Note that the Council owned Fraser's Gully reserve land to the south of the application site has been excluded from the list above as this is not considered to be typical rural land as anticipated by the Plan (this has no productive value). Similarly, the area attribute to Lot 7 DP 470050 is restricted to only that portion of the property that excludes the indigenous vegetation (the full property area is 10.32Ha). The indigenous vegetation within this site comprises an approximate area of 5.5Ha and is similarly not considered to be typical rural land as anticipated by the Plan.

31. Each of the properties listed above enjoy either an established or consented residential activity.
32. With the above areas in mind, we can evaluate that the average area of all 12 properties that exist within the Rural Zone (excluding the major areas of indigenous vegetation) is 1.24Ha. This creates an average density within this portion of the Rural Zone of 1 residential unit per 1.24Ha.

33. We can also now clearly see that not one of the properties within the existing rural Zone comply with the density provision of the Rural Zone, being 1 residential unit per 15Ha – in fact each of the properties are significantly non-compliant in this respect.
34. In consideration of the provision of the Rural-Residential Zone, we can see that only 3 of the 12 properties would comply with the density provisions of that zone, were it to be that zone which was in effect at this location.
35. Furthermore, 8 of the 12 properties being considered occupy less than 1Ha in area, which is less than 10 percent of the Plan's specified Rural Zone minimum area and less than 50% of the Plan's specified Rural-Residential Zone minimum area. In fact, 6 of the 12 properties (half of the properties being considered) occupy less than 0.5Ha in site area.
36. The above evaluation clearly describes the severe inconsistency of the existing property format with the structure of the rural environment that is anticipated by the Dunedin City District Plan. With an average area of 1.24Ha and with half of the properties considered being smaller than 0.5Ha, it would be unreasonable to expect that this land could be utilised for productive rural activities as typically anticipated by either the Rural Zone or the Rural-Residential Zone.
37. It is with the above considerations in mind that the applicant has determined that the best use of the subject land is not for rural purposes, but is rather for a greater density of residential activity. This is supported by the applicant's assessment of the Sustainability objectives and policies, as well as the spatial location of the application land on the fringes of the urban environment and the 'ready to connect' status of the various servicing infrastructures.

Part 2, Resource Management Act 1991

38. To further assess the application's consistency with the national planning framework, it is relevant to consider Part 2 of the Resource Management Act 1991 (RMA). The purpose of the Act is stated, in s5(1), as being to 'promote the sustainable management of natural and physical resources'. The term 'sustainable management' is defined more fully in s5(2). It is the applicant's view that the proposed activity is consistent with the purpose of the RMA. This is more clearly visible when considering s6 of the Act.
39. s6 RMA sets out the matters of national importance. The matters provided for (paraphrased) are-
- a) the preservation of the natural character of rivers,
 - b) the protections of outstanding natural features and landscapes,
 - c) the protection of significant indigenous vegetation,
 - d) the maintenance and enhancement of public access to and along rivers,
 - e) the relationship of Maori with their ancestral lands,

- f) the protection of historic heritage,
- g) the protection of protected customary rights.

These matters are considered to be the most important matters that the RMA requires recognition of and provision for. Of these matters, the application at hand is directly supportive of a), b), c) and d) by way of the proposed vesting of the reserve areas with Council, which will preserve and protect the character, landscape, indigenous vegetation and access to the Frasers' Creek gully system and central watercourse. The matter described in f) is also supported by the application as the proposal includes measures to protect the existing heritage dry stone walls within the development land. In reference to matters e) and g), the application is consistent with these. To summarise, there are no parts of s6 in which the application is inconsistent.

40. s7 RMA sets out other matters to be considered. There are a number of relevant matters noted under this section of the Act, including (note, the matters not considered particularly relevant have been omitted)-

- b) the efficient use and development of natural and physical resources,
- c) the maintenance and enhancement of amenity values,
- d) intrinsic values of ecosystems,
- f) maintenance and enhancement of the quality of the environment,
- g) any finite characteristics of natural and physical resources.

Of the above matters, the applicant considers that the proposed activity is certainly consistent with b) and d). In respect of matters c), f) and g), the applicant considers the proposed activity to be consistent with these. This determination is reached by putting aside the District Plan's zoning of the property and looking instead at the application through the eyes of sustainability and best use of the land resource as it presently exists.

41. In light of the assessment that the application is particularly consistent with s6 of the Act, and also consistent with s7 of the Act, the applicant submits that the Committee should be able to feel comfortable in accepting the determination of the applicant (as well the independent determination of Council's planner) that the proposed activity is not contrary to the objectives and policies of the Dunedin City District Plan, when these objectives and policies are considered side by side with the purpose of the RMA.

Variation 9A

42. The Committee was asked by one of the submitters, through their advocate Mr Don Anderson, to consider Variation 9A when deliberating on this application. Mr Anderson submitted that the application could not be granted on the basis that Variation 9A, which sought to reduce the minimum area of the Rural Zone from 15Ha to 6Ha, was overturned by the Court on the grounds that approval of this adjustment would be contrary to the relevant objectives and policies of the Plan.

43. It is the applicant's view that the Court decision on Variation 9A has very little direct relevance to the application being considered presently. Variation 9A was a Council

initiated plan change for the purpose of a district-wide adjustment to enable subsequent subdivision and land use activities to occur in the Rural Zone at a density of 1 unit per 6Ha. This is fundamentally different from a site-specific resource consent application for an undersized subdivision and land use activity within the Rural Zone, as is the application at hand.

44. The manner in which the Council, and the Court, anticipated Variation 9A to be implemented was by way of development of properties in the Rural Zone from existing situations in excess of 12Ha to new sites in excess of 6Ha (i.e. complying with the new density provisions). This would normally be accommodated by way of a subdivision process. Variation 9A did not consider (nor was it required to consider) specific sites where the existing land structure was not already compliant or compatible with the Rural Zone.
45. In no way has the Variation 9A decision influenced the Council's ability to consider specific applications or sites on a case-by-case basis. Many situations are uniquely different to the manner of development that was promoted through the Variation 9A process, and each of these present various forms and scales of effects, as well as various opportunities for the City. However it is infrequent that these elements are identical across different applications or sites. For the Court to prevent Council's ability to assess individual applications on their own merits would itself be contrary to the purpose of the Act, being the sustainable management of natural and physical resources.
46. It is also relevant to note that the practice of the Court has not been to use the Variation 9A decision in the manner suggested by Mr Anderson. This is evidenced by recent Court rulings as described by Council's planner during her summing up at today's hearing (located at Saddle Hill and Wingatui) in which several recent applications for undersized Rural Zone development were originally declined by Dunedin City Council but were later given consent by the Court. Presumably these applications could not have been granted by the Court had the Court felt a requirement to translate the Variation 9A decision across the board.
47. With the above in mind, the applicant submits that the suggestion by Mr Anderson that the Court's decision in respect of Variation 9A should dictate the Committee's position in regard to the application at hand is incorrect.

s104D and Effects

48. The applicant is satisfied that the proposed activity is not contrary to the objectives and policies of the Dunedin City District Plan.
49. The applicant is also satisfied that the proposed activity will not introduce any adverse environmental effects which are more than minor, or which will not reduce to minor as the development matures (this is discussed further in the information below).

50. On the basis of the above considerations, the applicant maintains the view that the proposed activity passes both threshold tests as described in s104D RMA. This position is supported by Council's planner.

Precedent

51. The Committee raised the issue of precedent at today's hearing. Specifically, the discussion sought to understand the potential around other sites in the City being able to use the same justifications to enable their own undersized development, in the event that consent is granted for the application currently under consideration.

52. The answer to this is that there is little opportunity for a legitimate precedent to be established as a result of granting the sought consents. This is because there are exceptional circumstances that are attached to this site, which are unlikely to be found, in their combined form, on other sites. These exceptional circumstances include, but are not limited to-

- a) The existing severely undersized property format,
- b) The isolated nature of the pocket of Rural Zone in which the application sites exist, bordered on 3 sides by zones of greater residential density,
- c) The large gully system and area of indigenous vegetation that exists within the land,
- d) The readily available, and already approved, ability for the site to connect to reticulated town foul drainage and water supply services.

53. The above exceptional circumstances are expected to rule out any sites from alternative neighbourhoods, and accordingly these are not considered further.

54. Turning our attention to the local environment, we can immediately rule out from our considerations the properties surrounding the application land that are not contained within the existing Rural Zone. This leaves only the following properties for us to consider-

Adjoining Land within the Rural Zone:

Lot 3 DP 470050	0.39Ha
Lot 4 DP 470050	0.39Ha
Lot 6 DP 470050:	0.25Ha
Lot 8 DP 470050:	0.38Ha
493 Taieri Road:	0.58Ha
31 Dalziel Road:	2.00Ha
53 Dalziel Road:	0.38Ha

55. Of the above properties, we can rule out any sites that enjoy an area of greater than 0.4Ha as these could not be developed to the same density as proposed by the current application (i.e. 2,000m²). This then leaves only the properties at 493 Taieri Road and 31 Dalziel Road as being potentially subject to being able to claim a precedent.

56. However, neither of the properties at 493 Taieri Road and 31 Dalziel Road exhibit the same exceptional circumstances as noted in 52 c) and d) above, i.e. the gully system and available infrastructure connections, which are attached to the application property.
57. With the above considerations in mind, the applicant considers that there is little, if any, potential for a precedent, which could be realistically applied elsewhere in the City as a result of Council granting the sought consents.

Supporting Submitters

58. The submitters that presented in support of the application at today's hearing expressed a number of relevant opinions in endorsement of the proposed activity. These supporting elements include, but are not limited to-
- a) The benefits of allowing the City to grow in a sustained and sensible manner and location,
 - b) The positive effects of employment and economic growth that will be a by-product of the development,
 - c) The proposed development presents a good use of the land as an appropriate alternative to the expectation that the subject properties might realistically be used for traditional rural activities.
59. Without wishing to expand further on the supporting opinions above, the applicant is in full agreement with these comments and is confident that the anticipated benefits will be realised by the proposed development.

Opposing Submitters

60. The applicant's right of reply addresses a number of the concerns raised by opposing submitters below. This is achieved by addressing several submitter's presentations individually, and then some general comments around particular issues that appeared as more common themes. These discussions are followed by a review of the anticipated environmental effects.

Ruske Presentation

61. The Committee is asked to take care when reviewing the statistical information provided in the Ruske presentation. The applicant has not had an opportunity to fully review this information, however on first appearance it would seem to perhaps be selected in a manner that simple acceptance on its face value might render a biased impression.
62. The presentation made by Ruske also included reference to the submissions made by Gipp, Ramsey, Fiora and Wilson. All of these submitters, with the exception of Ramsey, reside in the Penno Block development on the western side of Dalziel Road.

It is therefore considered by the applicant that the concerns raised by this group of submitters are similar in nature to Ruske concerns, and the discussion below, while made in particular reference to the Ruske submission, is believed to address all of these submitters in general. The Ramsey submission is different in the sense that this property is located on the eastern side of Dalziel Road, and this submission is discussed specifically, where relevant.

63. The Ruske presentation showed several photographs taken from the Ruske property looking towards the development site. The concern was raised in reference to these photos was that the change in rural character of the visible land would be unacceptable. Comment was made by the submitter that she could see into the window of the new house on Lot 3 DP 470050. The applicant's interpretation of the effect in respect of the visible land is that this is not likely to be as significant as suggested by the submitter. The existing house referred to by the submitter is approximately 280m distant and it is considered that no privacy effect of any nature can be realistically claimed at this distance. In addition to this, the views from the submitters property across the development land are confined to reasonably narrow view shafts, and the appearance of a number of new dwellings within these corridors, keeping in mind the built up urban environment that exists in the background, is not expected to create an effect beyond minor. The other Penno Block submitters, excepting Ramsey, reside further away from the development land.
64. The next concern raised in the Ruske presentation is that additional traffic along Dalziel Road will detract from the peace and quite of the area, and will adversely alter the 'lifestyle' experience. The applicant disagrees with this claim. Care has been taken in the application to ensure that traffic along Dalziel Road will not be exacerbated as a result of the proposed development. In fact, no additional traffic is expected at all – all additional traffic will be serviced by the new access from Taieri Road. With this in mind, knowing that the proposed development will be confined to the eastern side of Dalziel Road (elevated below the level of the submitter's property and with the existing urban environment in the background), and knowing that there will be no additional traffic along Dalziel Road, it becomes more difficult to imagine how the lifestyle experience will be adversely effected beyond a minor degree. Furthermore, it is entirely possible that the development might lead to future improvements to the Dalziel Road formation - and this would presumably benefit all the residents along Dalziel Road.
65. In regard to the Ramsey submission, this submitter resides on the eastern side of Dalziel Road at a distance of approximately 120m from the closest point on the development land. However, the development property is all but impossible to see from the Ramsey property as this is screened by a line of large established trees. For this reason, and because the traffic along Dalziel Road will not be increased, the applicant believes that the lifestyle experience at this property will similarly not be adversely altered beyond a minor level.

66. Regarding the effect that the proposed development might have on local businesses, the submitter has suggested that this might be detrimental in nature. The applicant does not expect that the submitter's business will suffer in any way from the proposed development being implemented, for the same reasons as their being only minor effect on the lifestyle experience at the submitter's property. Furthermore, it is far more likely that many local businesses, schools and public facilities within the local community will instead benefit from the additional population that the proposed development brings in to the neighbourhood. The submitter noted that local recreational facilities such as the Pineapple Track might be placed under pressure if the proposed development was allowed to proceed; the applicant takes the alternative view that such facilities have capacity to provide enjoyment to a greater number of people than at present and of the proposed development enables this to occur then that is a positive result.
67. Finally on the Ruske presentation, the applicant notes that the expert evidence of Mr Mike Moore, supported by the advice from Council's landscape architect, is that the landscape effects on the properties at the western side of Dalziel Road will be minor once the initial development stage is over. As Mr Moore's evidence is the only expert landscape evidence that has been supplied, the applicant would ask the Committee to treat that information as preferential in this matter.

Dempster Presentation

68. The proposed Taieri Road access intersection, regardless of whether it is a public road or a private access, will operate in a safe and efficient manner. The applicant notes that the expert evidence of Mr Chris Rossiter, supported by the advice from Council's transportation engineer, is that that effects of the proposed access at Taieri Road will be minor. As Mr Rossiter's evidence is the only expert transportation evidence that has been supplied, the applicant would ask the Committee to treat that information as preferential in this matter.
69. The issue of headlight glare was raised by the submitter. This has been covered in detail by the applicant, and it is considered that sufficient mitigation measures have been integrated into the proposal to reduce the effect of headlight glare to an acceptable level.
70. The speed measurements made by the submitter appear to have been taken outside Ashburn Clinic, some 200m from the proposed intersection. As such, these are not likely to be particularly relevant. Similarly, the references to fatalities made by the submitter appear to principally refer to instances where your children have run across the road in front of traffic. This is not considered something that will be directly exacerbated by the proposed development.
71. The unreported traffic accidents noted in the Dempster presentation seem to occur from traffic moving east along Three Mile Hill Road not managing to successfully navigate the corner outside Ashburn Clinic. This situation will not be exacerbated by

the proposed development taking effect as the new intersection occurs some 200m further on from this unreported accident location.

72. Ice, snow and sunstrike are all environmental conditions that are common around the City. Drivers are expected to adapt to these conditions as an obligation of holding a driver's license. The applicant does not consider these conditions as being particularly relevant to the deliberations at hand.
73. Construction noise will be managed by way of the normal restrictions on noise and related effects. This is considered appropriate.
74. Street lighting along the new access alignments is expected to be in the form of directionally controlled low bollards, if installed at all, and this will mitigate adverse effects in respect of this feature. Street lighting is not essential – there are many roads where traffic is expected to navigate by way of headlights in the absence of permanent lighting facilities.

Wouters / Reitveld / Hayes Presentations

75. It is noted that the content of the Wouters, Reitveld and Hayes submissions are similar. For this reason, and also because these submissions all relate to the same property, at 31 Dalziel Road, it is sensible to respond to these submissions collectively. Further, it is noted that Hayes is a tenant of the property at 31 Dalziel Road, and that Wouters and Reitveld are the owners.
76. The applicant wishes to confirm that there has never been an agreement in place between RPR Properties Ltd and the residents of 31 Dalziel Road, or any party, that there would not be any proposal for further development within the land, or that there would only be a certain number of neighbours at any particular location. In fact, it has been widely publicised in the ODT since 2005/2006 that the applicant's intention has always been for a greater density of development at this location. This is evidenced by the 'no objection' clause added to the sales and purchase agreement, previously supplied with the application, which was added by RPR Properties Ltd with the intention of protecting the applicant's ability for further development. To claim that the applicant had agreed to limit the development ambitions in the manner described by the submitter is incorrect.
77. To clarify a matter that was discussed today in regard to the number of animals within the submitters' property, this understood (and observed) by the applicant to be a total of 2 horses and 3 sheep. Both Wouters and Hayes claimed ownership of 2 horses and 3 sheep, and this led to the perception of twice as many animals as actually exist. In fact, this ownership appears to be a shared arrangement, meaning that it is only 5 animals and not 10 that live at the address.
78. The submitter's have claimed that they will be looking at 38 houses as a result of this proposed activity being implemented (rather than 9 houses under the existing consented situation). This is an unlikely claim as many of the 38 resulting houses will

not be in the line of site that is achievable from the submitter's property. A more realistic statement, if truly assessing how many houses would be visible from the submitter's property, would be that the outcome of the proposed development might introduce 8-10 new houses into the range of visibility from the submitters' dwelling, compared to perhaps 4-5 under the existing situation. The applicant accepts that this is an increase nonetheless. In reference to the expert evidence provided by Mr Mike Moore, it is believed that the visual effects on the property at 31 Dalziel Road will reduce to moderate – minor once the initial development stage is over.

79. A number of mitigation measures have been proposed to reduce the level of adverse effects to the property at 31 Dalziel Road, including boundary fencing and planting. The form of fence that the applicant has offered to the submitter's includes a shade cloth barrier to prevent vegetation on the development side of the boundary from potentially upsetting animals within the submitter's property. This offer has yet to be accepted by the submitter.
80. The concern raised by the submitter in respect of the potential for damage to the existing heritage dry stone walls is not shared by the applicant. The dry stone walls are a valued part of the development property and these will be protected from possible damage through suitable covenants. The proposed Body Corporate will actively maintain these features and the provision of public pathways will enable greater accessibility to these heritage features for general enjoyment. It is difficult to understand the submitters' cause of concern in regard to this matter.
81. The matter of the existing stormwater seepage and springs across the land inside the development site at the eastern end of the submitters' property is not a matter requiring particular concern. The applicant considers that the principal contributor to this water is in fact uncontrolled runoff from the roof structures within the submitters' property rather than natural groundwater. Having said that, the applicant is aware that it will not be acceptable for the development to exacerbate this existing issue, and that suitable engineering design considerations will be needed to ensure that this does not occur. In practical terms, there are a variety of engineering solutions that can readily implemented to achieve stormwater drainage from the development site in accordance with acceptable practice. With this in mind, the issue is considered resolved.
82. The issue raised in regard to damaged pathway within the Frasers Creek reserve system is not particularly relevant to the proposal at hand. This land slip is located a distance of approximately 580m from the closest point of the development site and on an entirely different branch of the watercourse network. This occurrence has no bearing on the proposed development whatsoever. The sought consent is expected to include conditions that will require all engineering design plans to be reviewed and approved by Council staff prior to construction. This will ensure that all works, including works within the vicinity of the watercourse, are undertaken to an appropriate standard.

83. In respect of the concerns raised around the safety of animals within the submitters' property, the applicant disagrees that the animals will be adversely effected beyond a minor level. The horses in question are believed to be trained for dressage competitions and are accustomed to be transported in floats to and from the site, and familiar with public events in which load noises and unpredictable human behaviour are known to occur. Additionally, there are many boundaries between the urban and rural areas in which animals occupy space adjacent to (often high-density) residential communities. In these instances animals and residential activities are often a compatible mix, and in the majority of cases animals are able to adjust to this environment without undue adverse effects. The applicant believes that the same will be found in this instance.
84. The final matter of particular relevance raised by the submitters' (in Mr Andersons comments), is the reference to the assumption that the Council Policy Planner, Mr Paul Freeland, would not be prepared to support the application if put to him. To correct the submitter in this regard, Mr Freeland has in fact been (in principle) supportive from early on of the intention by the applicant to utilise the development land for a greater density residential development. The Policy Planning team at Dunedin City Council has continuously signalled encouragement for the proposed form of development, and this is evidenced firstly by the support provided by that department (and Mr Freeland) during the applicant's successful request to have town foul sewage and water supply connections attached to the land, and secondly by the 2nd Generation District Plan proposal for the land to be rezoned to become part of the new Large Lot 1 Residential Zone.

General Issues

85. Existing flooding on Taieri Road, in whatever frequency that this occurs, will not be exacerbated by the proposed development. This is caused by water unable to pass from north to south underneath Taieri Road. The development will not be contributing to this water catchment, and therefore cannot make matters worse. In fact, there is instead a possibility that the proposed development might improve this issue by providing additional drainage facilities at the entrance to the new development from Taieri Road. This might occur by way of new mudtanks, or even just re-aligned overland secondary flow paths – however, these remain subject to the development design processes at this time.
86. As noted above, the applicant is determined that there will be no exacerbation of existing adverse conditions on Dalziel Road. No additional traffic equates to no additional traffic-related effects. In respect to Taieri Road, the evidence provided is reasonably conclusive that no adverse effects beyond a minor level will be generated by the proposed activity at this location.
87. In regard to the general submitter comments around landscape and visual effects, the applicant can only reiterate that the single piece of expert evidence tabled as part of the application, from Mr Mike Moore, supports the proposed development (including the mitigation measures proposed) and concludes that the majority of

effects will be minor, with those not immediately minor reducing to minor once the initial stage of the development is complete.

88. Ongoing maintenance of the new infrastructure, and particularly the new public walkway facilities, will be undertaken by the proposed Body Corporate organisation. This will ensure a strong level of ongoing commitment to the monitoring and maintenance of this infrastructure.
89. Several submitters raised concerns that their property values might be detrimentally effected by approval of the proposed development. The applicant considers that it is more likely that nearby property values will improve as a result of a quality low density residential environment taking shape. This is the believed to be the usual consequence of new capital investment being introduced to existing communities.
90. Finally, to address the concern that has been raised in respect of the possibility of further subdivision occurring within the proposed development, to produce sites with a smaller area than 2,000m², the applicant can reassure the submitter's and the Committee that there is no intention for this to occur, and that it would be particularly difficult to achieve this even if this was intended. There are practical constraints that will make further subdivision difficult, including infrastructure capacities and Body Corporate agreements, and there will be planning difficulties as well, including likely non-compliances with the Large Lot 1 Residential Zone. Essentially, any further development will be unable to claim an incompatibility between the existing land use and the formal zoning, which is one of the fundamental justifications used to support the current application, and without an exceptional situation of this nature it is difficult to see how development consent would be issued. Further to this, the applicant is quite prepared to enter into a 'no further subdivision' covenant with Dunedin City Council should this be considered a suitable means to providing additional reassurance to restrict this possibility. On the subject of covenants, the applicant is also prepared to enter into a reverse sensitivity covenant in favour of the adjoining rural activities to prevent complaints from the new residents in respect of established rural processes.

Effects

91. The applicant firmly believes that all identified adverse environmental effects have been avoided, reduced or mitigated to acceptable levels. This is supported by the two expert evidence reports submitted with the applicant's information.
92. Submitters concerns are accepted for the most part as being developed from a genuine interest of community members to avoid undesirable outcomes. However, this being said, the applicant believes that the actual outcomes for the development proposal will fall well short of the scale of effects as anticipated by some of the submitters.
93. A full package of mitigation measures has been proposed by the applicant. These have been developed through various public participation processes, through expert

advice received, and through discussions with Council staff. These measures are considered comprehensive and appropriate, and when implemented are expected to be successful.

94. For the reasons described through this section of the applicant's right of reply, it is considered that the overall effects of the proposed development are either minor, or will become minor as the initial construction phase of the development matures. This determination is also reached by Council's planner. With this in mind, the Committee is asked to grant the sought consents, subject to suitable conditions.

Council Staff

95. It was suggested by the applicant, in response to comments by Council's transportation engineer, Mr Grant Fisher, that in addition to the 4.0m wide strip of road widening being offered to Council along Dalziel Road, the development contributions levied against the development may be available to assist with physical safety improvements along this section of the City's roading network. Mr Fisher agreed with this.
96. It was also clarified with Mr Fisher that it would likely be entirely possible to install a stop sign, or other form traffic control device, on the existing Taieri Road reserve land at the proposed entrance to the development, should such an action be considered appropriate. Again, Mr Fisher agreed with this.
97. It was suggested by the applicant, in response to comments by Council's landscape architect, Mr Barry Knox, that that anticipated maturity time of plantings might be significantly improved upon if mature plantings are installed initially as opposed to juvenile plantings. Mr Knox agreed with this. The applicant is prepared to install mature plantings at important locations for screening purposes to avoid overly long maturity periods.
98. Barry Knox was asked by the Committee for his view of the significance of the proposed reserve vesting with Council. Mr Knox described this as a significant piece of land in terms of its conservation and ecological value and felt that this reserve land would be an important acquisition for the City.
99. The Committee then asked the Council Planner, Mrs Lianne Darby, whether any information presented today influenced her original recommendation that the consents sought should be granted. Mrs Darby maintained her position that the proposed application passed both of the s104D thresholds and confirmed that she recommends that the sought consents should be granted, subject to appropriate conditions. The applicant is satisfied with this recommendation and seeks a similar conclusion from the Committee.

Conclusions

100. The essence of this application is to seek consent to develop an existing block of 5 undersized rural-zoned (but residentially consented) properties into 34 sites destined for residential purposes.
101. The Rural Zone provisions of the operative District Plan are highly inconsistent with the existing land, and on a wider scale the existing zoning format is unusual and unbalanced in the sense that there is a greater residential density permitted by the Plan to the east and the west of the application property. The edge of the City at this location is thus not well defined and the central rural block, within which the application site resides, is both already compromised and underutilised.
102. The proposed residential density of the development is generally consistent with the Large Lot residential 1 Zone as proposed under the 2nd Generation District Plan. This proposed density offers an appropriate transition in the residential form across the landscape between the existing Residential 1 Zone to the east of the application land and the existing Rural-Residential Zone to the west.
103. The applicant submits that the land, other than the natural gully systems, has less than significant rural character value in its present form. The landscape is not visually prominent from wider viewpoints and is already compromised by the existing overhead powerlines that dominate the visual appearance of the land. Furthermore, the land cannot be expected to remain in its current form as there are 7 yet-to-be constructed residential activities within, or immediately adjoining, the application property. With these matters in mind, the potential loss of rural amenity is considered to be an acceptable outcome of the proposed development. The gully system and associated watercourse will be better protected, and more accessible, if the proposed activity is allowed to be implemented than it is under the current situation.
104. Overall, the applicant is confident that the proposed development presents the best possible use of the existing land resource and that it offers a unique opportunity for the City to provide a well-integrated and desirable residential neighbourhood that is compatible within its local environment.
105. Summarising the planning considerations involved, the applicant has demonstrated the following-
 - a) The proposal has been developed over a lengthy period of time and has taken into account community views to identify and integrate suitable mitigation measures.
 - b) The reports provided by the applicant, in respect of landscape and transportation matters, are the sole sources of expert evidence and should be viewed as preferential assessments. Both reports support the proposed development.
 - c) The proposal is not contrary with the objectives and policies of the Dunedin City District Plan. There are a number of inconsistencies, however these are

considered to be acceptable for the reasons discussed. Council's planner agrees with the applicant in this matter.

- d) The proposal does not create adverse environmental affects that that beyond a minor, or reducing to minor, level. Again, Council's planner agrees with the applicant in this matter.
- e) A number of significant positive effects are expected to result from the implementation of the proposed activity. These include protection of the existing native bush reserve area, provision of new pedestrian and cycleway connections, enhanced means for Council to prioritise safety improvements at Dalziel Road, increased opportunity for business within the local community, the provision opportunities for employment and economic wellbeing during development construction, and ultimately a more sustainable use of the land in question.
- f) A harmful precedent is not likely to be established as a result of the Committee's decision to grant consent, should this occur.
- g) A number of supporting submissions have been received by Council, and relevant matters have been described in these submissions.
- h) A number of opposing submissions have been received by Council. The applicant has responded to the pertinent points raised in these opposing submissions. Overall, the applicant believes that the actual effects of the development will be significantly less than the submitter's concerns describe, and that these will in fact be acceptable.
- i) Council staff, including infrastructure staff and planning staff, are supportive of the proposed development.

With the above planning considerations in mind, the applicant submits that there is sufficient scope of the Committee to grant the consents sought.

106. Finally, the applicant would like to thank the Committee for their time in hearing this application.

Kurt Bowen
Registered Professional Surveyor
22 March 2016