

18 April 2016

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RPR Properties Limited
C/- Paterson Pitts Group
Attention: Kurt Bowen
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Dear Sir/Madam

**RESOURCE CONSENT APPLICATION, SUB-2015-54 and LUC-2015-291
35, 41, 43, 47 & 49 DALZIEL ROAD, DUNEDIN**

The above applications for subdivision and land use consent were processed on a notified basis in accordance with Section 95 of the Resource Management Act 1991. The Consent Hearings Committee comprising Councillors Andrew Noone (Chairperson), Councillor Andrew Whiley and independent Commissioner David Whitney, heard and considered the application at a hearing on 22 March 2016.

At the end of the public part of the hearing, the Committee, in accordance with Section 48(1) of the Local Government Official Information and Meetings Act 1987, resolved to exclude the public.

A site visit was undertaken by the Hearings Committee on 21 March 2016 prior to the hearing.

The Committee has **declined** consent to the application on 18 April 2016. The full text of this decision commences below.

The Hearing and Appearances

The applicant was represented by:

- Tom & Loretta Richardson
- Kurt Bowen (Consultant Surveyor)

Council staff attending were:

John Sule (Advisor to Committee), Lianne Darby (Processing Planner), Grant Fisher (Transportation Planner) Barry Knox (Landscape Architect) and Jenny Lapham (Governance Support Officer).

Submitters presenting included:

- Basil Scott
- Ross McTaggart
- Angela Ruske
- Laura Hayes
- Valerie Dempster
- Alice Wouters
- Don Anderson (Consultant planner for A Wouters and Chris Rietveld)

Procedural Issues & Late Submissions

No procedural issues were raised at the hearing. It was noted that Mr Anderson would be presenting submissions for Alice Wouters and Chris Rietveld as Keith Hovell was not available due to a serious illness in his family. It was noted by the Committee Advisor that procedural issues identified in the original submission were considered and responded to in writing prior to the hearing by the Committee Chair. Mr Anderson agreed that the procedural issues raised in the submission do not prevent the Committee from hearing the application.

Two late submissions were considered by the Committee. One that arrived on 11 February 2016 shortly after the closing date and this submission was accepted by the Committee. The other submission was very late being received on 25 February 2016 and it was not accepted. It was noted that this submission covered similar ground to others. A resolution was passed by the Committee to accept the submission from Asiya Barekzai received on 11 February 2016 and to refuse the submission from Johnathan Boyd received on 25 February 2016.

Principal Issues of Contention

The principal issues of contention are as follows:

- The characteristics of the existing environment which include an earlier subdivision approved at a Rural Residential density.
- Whether the proposal was contrary to or inconsistent with the Objectives and Policies of the operative and proposed District Plans in relation to the Section 104D test.
- The degree and significance of adverse effects on rural amenity values and character resulting from the proposed subdivision and resulting development of dwellings.
- The significance of transportation effects and the suitability of the proposed vehicle access.
- The effectiveness of mitigation proposed by the application to address adverse effects.
- Precedent implications

Summary of Evidence

Introduction from Processing Planner

Lianne Darby outlined the application for subdivision of 35, 41, 43, 47, and 49 Dalziel Road into 34 residential lots and the residential development of these new sites. She noted that the five subject sites contain a total of 16.0ha, and the site range in size from 4860m² to 10.3ha. Ms Darby noted the land is zoned Rural in the operative Dunedin City District Plan and that subdivision into lots smaller than 15.0ha was considered to be non-complying activity. She noted that the site has frontage to Dalziel Road on its western boundary, and Taieri Road on its northeast boundary and that access for the new sites will be from Taieri Road.

Ms Darby noted that the land of the proposed residential lots for the most part Large Lot Residential 1 in the Proposed Second Generation Plan, and the proposed public reserve is shown as Rural – Hill Slopes. Ms Darby noted that the Proposed 2GP was publically notified after the lodgement of the resource consent application and therefore has very limited weight in regards to the application of the proposed rules. She noted that the rule regarding minimum lot size for rural land is in effect, and applies to proposed Lots 32, 33 and 34. The activity status of the application, as a non-complying activity, does not change under the proposed 2GP.

Ms Darby noted that the application was originally notified on 29 August 2015, and 29 submissions were received. The application was then revised with the primary access to the subdivision being transferred from Dalziel Road to Taieri Road. The revised application was then publically notified on 13 January 2016. Ms Darby identified that 44 submissions were received second time around: 16 submissions were in support, one was neutral in its stance, and 27 were in opposition.

Ms Darby noted that in making her assessment of the environmental effects of the proposal, she considered the nature of the application, the local environment, Council Officer comments, and the comments of submitters. Ms Darby considered that the proposed subdivision and residential development will have adverse effects as the rural character of the sites will be diminished, but she noted that the existing subject sites were not reflective of rural sites due to a prior subdivision. Ms Darby considered the continued use of Dalziel Road for a limited number of users was acceptable, and that the Taieri Road access will maintain the safe and efficient operation of Taieri Road. She observed that visual impact and amenity effects will be significant in the short term, but amenity will improve over time as new plantings mature.

Ms Darby considered the proposal to be consistent with many of the objectives and policies to do with manawhenua, hazards, transportation and subdivision. She considered the proposal to be inconsistent with those of the Sustainability and Rural zone sections but did not consider it to be contrary to any objectives and policies because of the existing environment. She acknowledged the assessment was finely balanced due to the rural zoning of the land. Ms Darby considered that the proposal will meet the thresholds to pass either of the gateway tests of section 104D, although if viewing the proposal in terms of the zoning rather than the existing environment will mean that neither gateway is cleanly met. Ms Darby considered that the Committee was in a position to consider the granting of consent.

In terms of precedent, Ms Darby considered that the subject site has a number of characteristics which were unusual for rural land, particularly the partially implemented existing underlying subdivision at a Rural Residential density. She considered the proposed subdivision and residential development would not set an undesirable precedent for the development of Rural-zoned land.

Ms Darby confirmed it was her recommendation to grant consent to the subdivision and land use proposals, subject to conditions. However, she noted the Committee must form its own view on its own assessment of the proposal, and may decide that declining consent is a more appropriate decision.

The Applicant

Kurt Bowen presented the applicants case describing the important features of the proposed subdivision and development proposal. He noted that large sites of 2000m² are proposed to promote a semi-rural environment. Mr Bowen noted that stone farm walls, the gully and the transmission lines that run through the site were the 3 obvious features of the site. He noted the applicant's intention was to establish a subdivision that incorporates important features of the local environment and its history. Mr Bowen noted the proposal would result in pedestrian pathways along existing stone wall and incorporate features such as open swale drains, gravel shoulders, neighbourhood reserves, rural style fencing provisions and provisions to promote landscaping throughout the development.

Mr Bowen discussed the proposed Taieri Road access and noted the existing Dalziel access will be restricted to servicing 9 new allotments which is equal to the number authorised under the earlier subdivision consent. Mr Bowen discussed the effects anticipated from the development focusing on landscape issues and the transportation effects of the proposed subdivision. Mr Bowen drew the Committee's attention to the positive effects of the development which included new reserves, connection to existing Council reserves, transportation connections and the retention of stone walls.

Mr Bowen concluded that the proposal was not contrary to the objectives and policies of the operative District Plan and agreed with Ms Darby on this aspect. He stated that as it was not contrary to the objectives and policies of any plan it passes the Section 104D gateway test and the Council Planner had reached the same conclusion. He noted that the provisions of the proposed District Plan should be given little weight.

Mr Bowen identified a range of concerns raised in submissions and detailed the applicant's specific response to the matters raised. He noted that the Council Planner's recommendation was to approve the consents and the applicant is in agreement with the Council Planner's recommendation. He agreed with the planner's conclusion in relation to effects, objectives and policies and precedent effects. Mr Bowen noted that the only major matter where there was not agreement with the proposed conditions was in relation to the walkway connection along the northern side of Lot 32. An alternative involving installing seating to promote use of the walkway adjacent to Lots 6 and 7 was proposed.

Mr Bowen concluded by advising that the applicant considers the proposed development presents the best possible use of the existing land resource. He noted 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.

Submitters

Basil Scott spoke in support of the application. He identified that he was a landowner at Halfway Bush and he outlined his involvement with the area over many years. Mr Scott noted the land was not particularly productive and the proposal was positive in providing infrastructure. He considered that positive effects that would arise from its approval. He noted that Dunedin needs growth. Mr Scott responded to questions from the Committee on productivity and his connections with the area.

Ross McTaggart spoke in support of the application. He considered that the proposal appeared to be a good use of the land resource. Mr McTaggart noted the transformation of the area over time from rural to a more residential character. He responded to questions from the Committee on a range of issues including traffic safety and he advised the Committee that getting out of his driveway on to Taieri Road was not too difficult.

Angela Ruske, a resident of Dalziel Road, spoke to a power point presentation noting that she was also speaking for other submitters in opposition that could not attend the hearing including Lynn Gipp, Lesley and Doug Ramsey, Murray and Aniko Fiora and Leah Wilson. She also referred to the Dunedin Branch Pony Club which was not a submitter. Ms Ruske outlined for the Committee her background to living in the area noting that she farms and breeds alpacas on her Dalziel Road site and that she also operates a homestay business. She emphasised that the Rural residential nature of the area was a big part of the reason to purchase in the area. Ms Ruske values the semi-rural feel of the area highly and she considers that the amenity and character would be impacted by the proposed subdivision. She identified that the visual impact, effects on privacy, effects on her business, the increased likelihood of dog attacks and disturbance to farm animals as particular areas of concern for her. Ms Ruske identified traffic as an important issue noting that there were a number of recreation users of the area that would be impacted by the proposal.

Similar concerns were expressed by the other parties she was representing, some noted the presence of underground springs and were concerned about the implication of the springs on the development. In her concluding comments Ms Ruske noted that the proposal is in breach of the District Plan and the Resource Management Act. She considered the proposal would adversely impact to the rural residential amenity values of on Dalziel Rd and it would result in increased traffic and noise. In response to questions she noted that she had supported the initial design of the earlier rural residential subdivision as that density was consistent with the zoning on the opposite side of Dalziel Road.

Laura Hayes spoke in opposition to the proposal. Ms Hayes is an occupier of land at 31 Dalziel Road that she uses for running horses and sheep. She considered the change in the number of dwellings to be established on the land from 9 to 34 would impact significantly on the rural residential character and amenity of the area. Her particular concerns were in relation to impacts on livestock and reverse sensitivity conflicts. She identified concerns with traffic safety, noise including fireworks and dog attacks on stock. Ms Hayes responded to questions from the Committee on these and related issues.

Valerie Dempster, a resident of Taieri Road, spoke in opposition to the proposal noting that she had lived at her property for 54 years. She expressed concerns about safety in relation to the proposed Taieri Road intersection. She noted that traffic in the area often travelled at speeds that were well in excess of the speed limit. Ms Dempster did not agree with the accident numbers quoted in the traffic report and outlined that over the 54 years she had lived in the area she had witnessed a number of accidents.

Ms Dempster noted that the road was prone to flooding in high rainfall events and she spoke about the incidents she had witnessed. Ms Dempster noted that she did not see the need for a public reserve on Taieri Road noting that there was a large one located on Ashmore Street. She considered the gully to be a dangerous place for children because of the stream and flooding events. Ms Dempster responded to a number of questions on transport issues and accidents.

Alice Wouters spoke to circulated written submissions in opposition to the proposal; noting that she and her partner Chris Rietveld were owners and occupiers of 31 Dalziel Rd. She advised that she had lived in the Halfway Bush area for many years. Ms Wouters noted that she had supported the previous rural residential subdivision but she was completely opposed to the current proposal. Ms Wouters concerns were related to the significant impact on rural/rural residential character and amenity values that would arise from the proposal. She stated that this was contrary to the understanding with Mr Richardson when she and her partner purchased the property. She emphasised to the Committee that they had purchased the property at 31 Dalziel Road for the rural outlook and openness. Ms Wouters noted that they expected to see neighbours as they were aware of the rural residential subdivision but expected that these neighbours would be relatively few and have similar interests. She identified a range of concerns including traffic effects, noise reverse sensitivity, light pollution and peak stormwater flows. Ms Wouters considered the proposal will have a major effect on rural/rural residential character and amenity noting that an additional 29 houses cannot be called minor. She concluded by noting that the proposed intensification of residential activity will have a major impact on their home and did not accept the planners claim that the overall effects will be minor. Ms Wouters considered that approving the proposal would send a signal that the Council zoning and rules have little value and that land on the fringes of the city is open for housing intensification.

Don Anderson tabled and spoke to submissions made on behalf of Alice Wouters and Chris Rietveld focusing on the Section 104D test under the Resource Management Act and the Environment Court case that led to the establishment of the Rural provisions in the operative Dunedin City District Plan. Mr Anderson noted that the Court decision established 15ha as the minimum lot size in the operative plan. He considered that it was inconceivable that the proposal subdivision into lot sizes of 0.2ha can now be considered at worst to be inconsistent with the Objectives and Policies of the operative plan. Mr Anderson considered the proposal was clearly contrary to the objectives and policies of the operative District Plan. He noted that the objectives and policies of the Second Generation plan were subject to challenge and may change and as a result the weight that can be given to them is insignificant.

In terms of effects Mr Anderson noted that the effects arising from the transformation of the site into 33 residential lots were significant and that this view was supported by the expert evidence.

Mr Anderson spoke at length on the elements of the Environment Court decision and their relevance to the proposed development. He discussed rural yards and the significance of the non-complying activity status. He concluded that the proposal failed the Section 104D test and the Committee therefore could not consider granting the consent.

Mr Anderson was questioned on the position he advanced that if a rural zoned subdivision created sites less than 15ha in area then it was almost certain to be contrary to the operative District Plan.

Council Officers

Grant Fisher spoke to the expert traffic advice he had provided to the Committee. Mr Fisher discussed the constraints associated with Dalziel Road and he noted the road was challenging particularly to non-motorised users. He also acknowledged that winter driving conditions in the area could be challenging but this was no different to other hill suburbs.

He responded to the evidence and submissions that he had heard and in relation to the Taieri Road access he acknowledged that vehicles were often travelling above the speed limits. He noted in response to questions about this issue that development often assisted with slowing vehicles.

Mr Fisher noted that the crash statistics typically cover the last 5 years as road conditions and environments change over time. He considered that the transportation effects would be no more than minor overall. Mr Fisher responded to a number of questions from the Committee. In respect of plans for the proposed 4m strip on Dalziel Road, he advised that there were no fixed plans to widen the road. In respect of the Taieri Road Access being public or private Mr Fisher explained the Council position did not in favour a hybrid arrangement.

The Council's Landscape Architect **Barry Knox** noted that although the visual impact change would be major there were positives in that the gully system would be retained and there would be a link to the existing reserve. In response to questions regarding mitigation he noted colour schemes and planting would provide mitigation but that the effects were more about the density of the dwellings.

Processing Planner's Review of Recommendation

Ms Darby noted that the 5 sites to be subdivided although zoned rural did not have the characteristics of rural land and were nowhere near 15ha in area. She considered that had the land been rural in character then the proposal would have been contrary to the objectives and policies, but in her view it was not rural in character. In her view declining consent would not maintain, enhance or preserve a rural environment.

Ms Darby recommended maintained a 10m yard around the perimeter of the subdivision. She acknowledged that the effects would be significant in the short term but that over time the visual effects would become no more than minor. Ms Darby noted that any precedent would be limited in its scope and would be largely confined to the adjoining site at 31 Dalziel Road. She confirmed her recommendation was to grant consent.

Mr Darby was questioned by the Committee on the assessment of objectives and policies in respect of the loss of rural character and amenity. Ms Darby accepted that the openness of the land would be further diminished by the proposed subdivision and the proposed residential development but her view was that the land was no longer rural in character as the result of the previous subdivision.

Applicants Right of Reply

The applicant requested it be able to respond to some matter at the hearing and then provide a written right of reply for more substantive matters. Mr Bowen noted that in addition to the 4m strip that would be vested there would be significant development contributions and that this may provide funding for improvements to Dalziel Road to be sped up.

A comprehensive written Right of Reply was provided by the applicant on 22 March 2016 where the objectives and policies were traversed in some detail. In addition the reply responded to matters raised by submitters addressed the issue of precedent and addressed Part 2 considerations. The applicant concluded by advising the Committee that there was sufficient scope for the Committee to grant consent.

Statutory and Other Provisions

In accordance with Section 104 of the Resource Management Act 1991, the Planner's Report detailed in full the relevant statutory provisions and other provisions the Committee considered. Regard was given to the relevant provisions of the following chapters of the Dunedin City District Plan: 4 Sustainability, 6 Rural Zones, 20 Transportation and 21 Environmental Issues. Statutory provisions considered included Sections 5, 7(c) and 7(f) within Part 2 of the Act. Regard was also given to the Regional Policy Statement for Otago.

Main Findings on Principal Issues of Contention

The Hearings Committee has considered the evidence heard, the relevant statutory and plan provisions and the principal issues in contention. The main findings on the principal issues have been incorporated within the reasons discussed below.

Decision

The final consideration of the application, which took into account all information presented at the hearing, was held during the public-excluded portion of the hearing. The Committee reached the following decision after considering the application under the statutory framework of the Resource Management Act 1991. In addition, a site visit was undertaken prior to hearing. The Committee inspected the site and the local area and this added knowledge of the locality to the Committee's considerations.

Subdivision

*That pursuant to Sections 34A(1) and 104B and after having regard to Part 2 matters and Sections 104 and 104D of the Resource Management Act 1991, and the provisions of the Dunedin City District Plan and the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **declines** consent to a **non-complying** activity being the subdivision of Lots 2, 5, 7, 9 and 10 DP470050 into 34 residential lots, road, access lots private parks and public reserve at 35, 41, 43, 47 and 49 Dalziel Road.*

Land Use

*That pursuant to Sections 34A(1) and 104B and after having regard to Part 2 matters and Sections 104 and 104D of the Resource Management Act 1991, and the provisions of the Dunedin City District Plan and the Proposed Second Generation Dunedin City District Plan, the Dunedin City Council **declines** consent to a **non-complying** activity being residential activity on Lots 1 – 34 of Sub 2015-54.*

Reasons for this Decision

The Permitted Baseline and the Existing Environment.

- 1 The permitted baseline for Residential Activity in the rural zone was described by Ms Darby in the Section 42A report. The Committee considers that the permitted baseline provides very little opportunity for the discounting of effects from the proposed subdivision and the associated land use activity.
- 2 The Committee accepts that the existing environment includes the preceding Rural Residential subdivision (SUB-2012-92 and variations) that has been completed and the associated land use for establishing dwellings on the new lots (LUC-2012-504 and variations) which has been partially implemented. The end result of that subdivision is identified by Ms Darby as nine houses on the hillside.

- 3 The Committee observes that the layout of this earlier subdivision will result in the clustering of these dwelling to a central portion of the parent site leaving Lot 7 as a relatively large balance lot. The Committee considers that this subdivision results in a rural residential character for the sites and it retains a large area of land preserving a degree of openness and separation from neighbours. The explanation for this design at the hearing was that it allowed the gully system to be maintained in one lot. The Committee observed that the design of the subdivision allowed a sense of openness to be retained and it also provided for future development opportunities through residential expansion onto the land.

Effects

- 4 The primary effects areas identified in the Section 42A report and in submissions are transportation and rural character and amenity. Reverse Sensitivity was also frequently raised as an issue primarily in relation to the impacts of the development on farm animals.
- 5 The Committee accepts the expert advice that the transportation effects will be no more than minor. It acknowledges that vehicles frequently speed along the stretch of Taieri Road where the primary access will be sited but it accepted expert evidence suggesting that this behaviour would likely change with development of the area, as it will appear less open and this will affect driver behaviour.
- 6 The Committee has considered the effects of the proposal on amenity values and rural character and has concluded that they are more than minor. A significant transformation will occur. Both landscape architects agree that the visual change will be significant. There will be a significant increase in the number of dwellings on the land, increased traffic, noise and lighting impacts.
- 7 Mr Anderson opined that in his view the effects are significant and he considers that this is supported by the expert evidence. Ms Darby accepts that the character of the site is to be fundamentally altered. She acknowledges that the effects will initially be significant but over time she considers that with the establishment of dwellings and vegetation the effects will reduce to a point where they are no more than minor. The Committee notes that this could take many years to occur and it agrees with the expert evidence that the change is significant and that the effects on amenity and rural character are more than minor. The Applicant's expert surveyor appears to accept the effects on rural amenity values and rural character are more than minor often describing them as acceptable in the evidence and submissions rather than minor.
- 8 The Committee noted that the sustainability section of the plan establishes a plan framework for zoning and identifies amenity values and compatibility as an important consideration in all zones. Impacts on rural amenity values are therefore an important effects consideration in the assessment of these applications. The Committee considers that the adverse effects of the proposal will be significant and cannot be adequately mitigated through conditions of consent. The Committee accepts that the land is rural residential in character but agrees that there is a marked difference between the 9 dwellings permitted under the previous consent at an overall 2ha density and the 34 Lots and associated dwellings proposed under these applications.
- 9 The Committee also considers the degree of adverse effects arising from other effects considerations such as reverse sensitivity is not significant. There will be increased potential for conflict but there was no compelling evidence that the effects will be more than minor.
- 10 The Committee acknowledges the positive effects of the development proposal and it notes that the subdivision appears well-designed. It retains the gully system, avoids hazardous land, provides transport connections and connections to existing reserves and retains stone walls. It also promotes amenity planting within large residential sites.

- 11 The proposal will result in a significant transformation in terms of the land use. It is the Committee's view that the expert evidence is that the effects on rural amenity and character are more than minor and the effects of rural character and amenity are a primary effects consideration. The Committee therefore considers the effects limb of the Section 104D test is not passed. The proposal must therefore pass the Objectives and Policy limb of the Section 104D test for the Committee to be able to consider granting consent.

Objectives and Policies

- 12 The Committee accepts the evidence it has received that it can only give very limited weight to the objectives and policies of the proposed Second Generation District Plan. The Large Lot Residential 1 zoning notified for the land has been opposed and submissions have not been heard. The Committee has given primary weight to the objectives and policies of the Operative District Plan.
- 13 Ms Darby advised the Committee in her opening that the overall objectives and policies assessment was finely balanced. In her view the proposal was not contrary to any objectives and policies as the previous subdivision meant that although the land was zoned rural it was not rural in character. As the land was already compromised Ms Darby considered the proposal was only inconsistent with the relevant objectives and policies of the Sustainability or Rural sections of the operative plan. Mr Bowen agreed with Ms Darby. Mr Anderson had a different view and he submitted that it was inconceivable that the proposed subdivision could be considered at worst inconsistent with the objectives and policies given the proposed size of the lots that are well under the 15ha minimum for rural zone lots established by the Environment Court.
- 14 The Committee considers that the planners appeared too focussed on the 15ha minimum site size. This minimum site size although mentioned in explanations to objectives and policies is not specifically identified in any of the rural zone objectives and policies in the operative plan. The objectives and policies are more focused on the characteristics of the rural environment. It agrees the 15ha minimum site size provides a yardstick for assessing characteristics and that the existing environment needs to be taken into account in the assessment of objectives and policies. However, if existing sites are already less than 15ha minimum this does not automatically mean that significant further erosion won't be contrary to the objectives and policies of the Rural zone. Further, any rural subdivision that creates sites significantly less than the 15ha minimum will not be automatically contrary to the objectives and policies of the operative District Plan as the existing environment needs to be considered. In this case the expert evidence identifies the transformation proposed as significant and this will result in a predominance of human made features, a significant diminution in open space and an increased population density.
- 15 The Committee accepts that the productivity of the site is not a significant consideration but it considers the proposal is contrary to a number of key Sustainability and Rural section objectives and policies relating to rural amenity values and character. This proposal will install a large lot residential development on land zoned rural. It accepts the previously subdivision alters the existing environment but it notes the adverse effects associated with an additional 29 substantial houses will be significant. Even taking into account the existing environment the level of intensification proposed is considered to be the opposite of the environment the objectives and policies are trying to promote in relation to rural amenity values and rural character. The Committee finds that the proposal is contrary to the relevant objectives and policies of the Operative District Plan.

Determination

- 16 The Committee considers that the proposal will result in more than minor adverse environmental effects and is contrary to the key Sustainability and Rural zone objectives policies in the operative plan. As such, the Committee considers the proposal fails the Section 104D gateway test and as a result the Committee is not able to consider the granting of consent to the proposal.
- 17 The Committee has significant sympathy for the applicant in this matter as the subdivision proposal appears to be well considered and well designed. No major issues were identified with infrastructural servicing. Despite this, the Committee considers that a development of this scale was always a difficult proposition under the current zoning and it would be more appropriately advanced through a plan change or the second generation plan process. It notes the reasons identified in SUB- 2012-92 signalled the potential difficulties as follows:

The long term development of the balance land (Lot 7) land is not certain at this time. The Committee accepted that future rezoning of the land to residential could occur as part of the Second Generation District Plan (2GP). The Committee expressed a preference for any future development of the balance area to be undertaken once the review process for the 2GP is further advanced. In the event that any application for further development were lodged prior to the settlement of the 2GP provisions it would be considered on its merits, but may not find any support in the relevant planning documents.

- 18 Recent expansions of the Mosgiel and Outram Residential zones have been achieved through a plan change process where the operative plan objectives and policies are not as central to decision making considerations. The Committee also notes that the timing of the 2GP notification may not have been helpful to the applicant in this case as preparations for the subdivision are advanced and the applicant is keen to progress the subdivision. It will be delayed by the lengthy 2GP hearings process.
- 19 The Committee observes that a number of submitters in opposition were supportive of, or at least could live with, the existing rural residential subdivision. This indicates that some have the realisation that the land has no long term future as rural land but they want to reduce the density of development to a rural residential character at worst. The Committee considers that the best use of the land is a matter better addressed through the 2GP hearings process and the Committee does not want to predetermine the outcome of the consideration of the zoning under the 2GP. The Committee note that the decision makers hearing the proposal for rezoning under the 2GP will not be as constrained in relation to consideration of the provisions of the operative plan. This is likely to make the case for rezoning the land as large lot residential or a more intensive residential zoning significantly stronger. The city will need to provide for expansion areas and in that regard the Committee observes that a Residential 1 density would be a more efficient use of the land as an expansion area.
- 20 The Committee has concluded that in terms of the operative plan, that must be given more weight, the refusal of the consents would be consistent with the purpose of the Resource Management Act 1991 to promote the sustainable management of natural and physical resources.

Other Matters

- 21 As it has determined that the proposal does not pass the gateway test the Committee does not need to consider whether the proposal is a "true exception".

Right of Appeal

In accordance with Section 120 of the Resource Management Act 1991, the applicant and/or any submitter may appeal to the Environment Court against the whole or any part of this decision within 15 working days of the notice of this decision being received. The address of the Environment Court is:

The Registrar
Environment Court
PO Box 2069
CHRISTCHURCH 8140

Any appeal must be served on the following persons and organisations:

- The Dunedin City Council.
- The applicants.
- Every person who made a submission on the application.

Failure to follow the procedures prescribed in Sections 120 and 121 of the Resource Management Act 1991 may invalidate any appeal.

Please direct any enquiries you may have regarding this decision to John Sule, whose address for service is City Planning, Dunedin City Council, PO Box 5045, Dunedin 9058.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Andrew Noone'.

Cr Andrew Noone
Chairperson
Hearings Committee