29

VARIATION 2 – ADDITIONAL HOUSING CAPACITY

SUBMISSION FORM 5

SECOND GENERATION DISTRICT PLAN

CLAUSE 6 OF FIRST SCHEDULE, RESOURCE MANAGEMENT ACT 1991

This is a submission on Variation 2 to the Second Generation Dunedin City District Plan (2GP). Your submission must be lodged with the Dunedin City Council by midnight on 4 March 2021. **All parts of the form must be completed.**

Privacy

Please note that submissions are public. Your name, organisation, contact details and submission will be included in papers that are available to the media and the public, including publication on the DCC website, and will be used for processes associated with Variation 2. This information may also be used for statistical and reporting purposes. If you would like a copy of the personal information we hold about you, or to have the information corrected, please contact us at dcc@dcc.govt.nz or 03 477 4000.

Make your submission

Online: www.dunedin.govt.nz/2GP-variation-2 | **Email:** districtplansubmissions@dcc.govt.nz

Post to: Submission on Variation 2, Dunedin City Council, PO Box 5045, Dunedin 9054

Deliver to: Customer Services Agency, Dunedin City Council, Ground Floor, 50 The Octagon, Dunedin

Submitter details (You must supply a postal and/or electronic address for service)

First name: BA Building Ltd

Last name:

Organisation (if applicable):

Contact person/agent (if different to submitter): Kurt Bowen, Paterson Pitts Group

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Suburb:

City/town: Dunedin Postcode: 9058

Email address: kurt.bowen@ppgroup.co.nz

Trade competition

Please note: If you are a person who could gain an advantage in trade competition through your submission, your right to make a submission may be limited by clause 6(4), Schedule 1 of the Resource Management Act.

I could gain an advantage in trade competition through this submission: ○ Yes ◉ No

If you answered yes, you could gain an advantage in trade competition through this submission, please select an answer:

○ Yes ○ No My submission relates to an effect that I am directly affected by and that:

a. adversely affects the environment; and

b. does not relate to trade competition or the effects of trade competition.

Submission

Submissions on Variation 2 can only be made on the provisions or mapping which are proposed to change, or alternatives that are clearly within the scope of the 'purpose of the proposals', as stated in the Section 32 report. Submissions on other aspects of the 2GP are not allowed as part of this process.

You must indicate which parts of the variation your submission relates to. You can do this by either:

- making a submission on the Variation Change ID (in which case we will treat your submission as applying to all changes related to that change topic or alternatives within the scope of the purpose of that proposal); **or**
- on specific provisions that are being amended.

The specific aspects of Variation 2 that my submission relates to are:

Variation 2 change ID (please see accompanying Variation 2 – Summary of Changes document or find the list on www.dunedin.govt.nz/2GP-variation-2)

Refer attached document.

For example: D2

Provision name and number, or address and map layer name (where submitting on a specific proposed amendment):

Refer attached document.

For example: Rule 15.5.2 Density or zoning of 123 street name.

My submission seeks the following decision from the Council: (Please give precise details, such as what you would like us to retain or remove, or suggest amended wording.)

- ◯ Accept the change
- ◯ Accept the change with amendments outlined below
- ◯ Reject the change
- ◯ If the change is not rejected, amend as outlined below

Refer attached document.

Reasons for my views (you may attach supporting documents):
If you wish to make multiple submissions, you can use the submission table on page 3 or attach additional pages.

Refer attached document.

Hearings

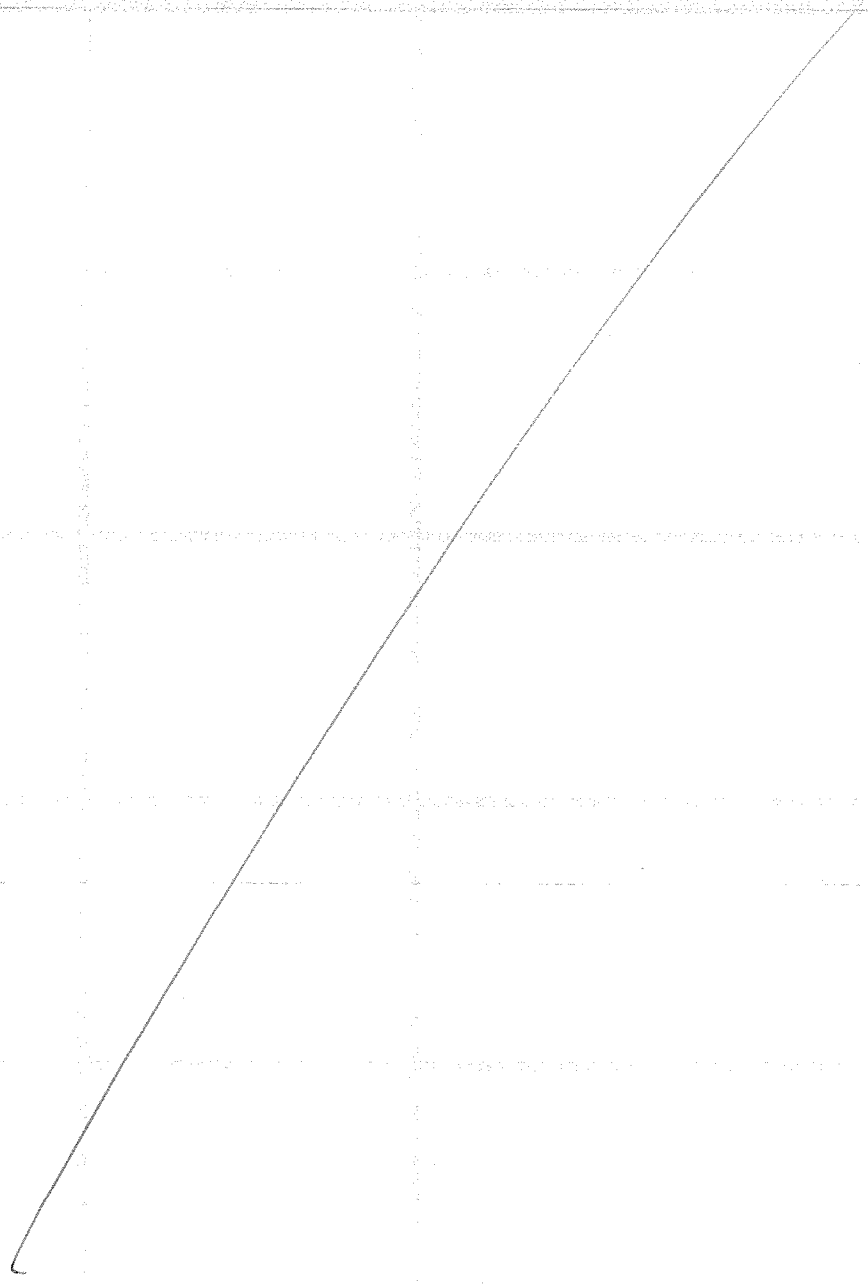
Do you wish to speak in support of your submission at a hearing: ◉ Yes ◯ No

If others make a similar submission, would you consider presenting a joint case at a hearing: ◉ Yes ◯ No

Signature:  **Date:** 04/03/21

Multiple Submissions Table

Variation 2 change ID or provision name and number or address and map layer name	Decision Sought a. Accept the change b. Accept the change with amendments outlined c. Reject the change d. If the change is not rejected, amend as outlined	Reasons for my views



Variation 2 change ID:

Relating to all of the proposed NDMA and NWRA areas, and the proposed infrastructure provisions for development and subdivision.

Relating to all residential zone density policy changes.

Relating to service connections and transportation changes.

Provision name and number, or address and map layer name:

Relating to all of the proposed NDMA and NWRA areas, and the proposed infrastructure provisions for development and subdivision.

Relating to all residential zone density policy changes.

Relating to service connections and transportation changes.

My submission seeks the following decision from the Council:

Regarding the proposed NDMA and NWRA area, and regarding the proposed infrastructure provisions, our views are as follows (note, where the term NDMA is used this is intended to address both the NDMA and NWRA areas).

NMDA/Infrastructure Provisions General

The submitter has a number of concerns relating to NDMA overlay regions and infrastructure controls. In general, these relate to the following-

(i) Inadequate (incomplete) research has been undertaken by Council's 3-Water departments, particularly in regard to stormwater modelling, resulting in a knowledge gap. It appears that this is being resolved through a precautionary approach that could result in infrastructure being installed where it may not be required.

(ii) The imposition of these elements of Variation 2 will have a very real detrimental effect on the feasibility, and therefore the rate, of residential development. This is directly contrary to the purpose of Variation 2.

(iii) The National Policy Statement on Urban Development 2020 requires the provision of adequate infrastructure by the Local Authority to enable residential capacity. Passing the obligation to provide this infrastructure onto landowners and developers (except where the infrastructure is related to new greenfields land) is not appropriate. One of the largest bottlenecks to housing development is the cost of infrastructure, and accordingly if Council wishes to realise a greater level of housing then the City must be prepared to invest in the necessary supporting infrastructure (passing the costs on will not resolve the bottleneck).

(iv) Council has a development contributions policy and a rating program that generates increased income as new residential sites are created. Both of these income sources provide funding that is intended to be spent on City infrastructure

(development contributions for network upgrades, rating income for maintenance). While income from these sources is being collected by Council it is inappropriate (and a form of double-dipping) for network infrastructure upgrades to be imposed as conditions of development.

(v) Council has access to funding from national government for infrastructure improvement projects. The Otago Daily Times has recorded (05/08/2020; https://www.odt.co.nz/news/dunedin/water-reform-south-could-get-more-60m) that Dunedin City is able to secure $7.92 million directly (plus a share of the wider $20.6million regional allocation) for water reforms. It is the submitter's view that this funding source, and others like that this might be available, should be Council's priority method for resolving the existing infrastructure network constraints.

(vi) The proposed infrastructure provisions are overly complex, without adequate definition and will be problematic to implement (particularly where NDMA regions contain multiple land ownerships). These provisions are likely to delay, if not obstruct altogether, many residential developments from being advanced.

(vii) Rule 15.4.X. appears to seek to remove the permitted baseline assessment, as provided for in the RMA, from Council's consideration of stormwater matters. This is a fundamentally flawed position, which seeks to construct a rule in a lower-level regulation to override that of a higher-level regulation. Recent consent decisions, made independently and in accordance with the RMA, have clearly found that the permitted baseline assessment is an appropriate test in respect of stormwater management (in the same way as this applies to the consideration of other effects). This proposed Rule must be rejected.

Proposed Adjustments to Variation 2-

(i) Reject the proposed infrastructure controls from all new development and subdivision activities, until such time as Council's knowledge in respect of the areas of constraint is complete.

(ii) Reject the proposed infrastructure controls from all new development and subdivision activities, except where the infrastructure relates to new greenfields land (and i above is satisfied).

(iii) Reject the proposed infrastructure controls from all new greenfields land regions, until the stormwater management plan provisions can be amended into a workable arrangement.

(iv) Reject Rule 15.4.X.

NDMA/Infrastructure on existing residential land

The submitter owns land within the existing residential zones that is potentially developable.

The submitter feels that it is both inappropriate and unreasonable to impose NDMA/infrastructure controls onto any property in which the zoning format is not proposed to be changed to enable a greater yield of development. Reasons for this view include (in addition to the general discussion above)-

(i) There remains a question over the quality and completeness of Council's infrastructure modelling, with particular regard to the stormwater network. It appears that Council's 3-Waters department has taken a precautionary approach to infrastructure, whereby it is simply easier to require all new developments to meet the new infrastructure standards, despite some of these areas not necessarily being subject to an infrastructure constraint. If this is the case then this will lead to the installation of infrastructure, proposed to occur at the cost of the landowner/developer, that serves no purpose. This is inappropriate and contrary to the outcomes sought by Variation 2. If Council's infrastructure modelling knowledge is incomplete, it is essential that this is resolved before any new infrastructure controls are implemented.

(ii) The imposition of new development controls, which will inevitably result in additional development costs, where there is little anticipated return in respect of site yield, is directly contrary to the purpose of Variation 2 (which is ultimately to enable development so that houses can be built).

(iii) The NPS-UD requires Local Authorities to provide the infrastructure necessary to support residential capacity. If there are elements of the public infrastructure network that cannot support development of the City's existing residential land, then the Local Authority is required to upgrade these elements. This is not an obligation that can appropriately be passed on to landowners/developers.

(iv) The land enjoys a particular set of existing-use-rights at present. The zoning is not proposed to change, so there will be no beneficial offsetting for the landowner of the negative impact of the new infrastructure requirements.

Proposed Adjustments to Variation 2-

(i) PREFERRED: Reject the NDMA overlay and all proposed infrastructure controls from Variation 2.

(ii) ALTERNATIVE: Insert a provision that exempts any development and/or subdivision within the submission land from the requirements of the NDMA/infrastructure control provisions while the density of the development and/or subdivision is consistent with the current zone density expectations (e.g. 500m^2 in the GR1 Zone). This would maintain the status quo until such time as a developer proposed a density of residential activity that exceeds the current zone allowance.

NDMA/Infrastructure requirements on general subdivision

There are a number of proposed Policies and Rules that, if implemented, will trigger the need for network infrastructure upgrades. Several of these are discussed below-

Policy 9.2.1.1.X requires new infrastructure to be installed ahead of development in areas that are outside the wastewater serviced area. The submitter would like to clarify if the zone density applicable to these areas has been used to calculate residential capacity for the City? If so, then the responsibility for the provision of adequate network infrastructure may rightly fall on Council's shoulders as directed by the NPS-UD 2020. Further to this, where Council accepts that it has an obligation to upgrade infrastructure to satisfy the requirements of the NPS-UD, how is this envisaged to occur? How quickly can landowners

anticipate that Council would undertake these upgrades following a notice of development intent?

Policy 9.2.1.1A is somewhat similar to the above, however this imposes wastewater requirements on land within wastewater service areas. Again, if the network infrastructure is not adequate to support development in accordance with the zone density, the submitter considers that it is Council's responsibility to resolve this prior to development occurring. Perhaps a form of notice by a landowner to Council of a development intent could trigger a Council upgrade program? Presumably these upgrade works would then need to be undertaken relatively promptly.

Policy 9.2.1.BB requires specified new development mapped areas to provide communal wastewater detention systems. The submitter is agreeable to this provided that the specified areas have been correctly assessed by Council in respect of infrastructure requirements.

Policy 9.2.1.Z requires development that contravenes the impermeable surfaces rules to demonstrate that the effects of stormwater will be no more than minor. The submitter seeks to clarify that each of the activities referenced (i.e. multi-unit development, supported living facilities, subdivision, and development) only trigger the policy when they propose to breach the impermeable surfaces rules. The policy appears to read this way, however an alternative interpretation might be that the policy applies to multi-unit development, supported living facilities, and subdivision all in general, and only to development that breaches the impermeable surfaces rules. If the former interpretation is correct, then the submitter is supportive of this policy. If the latter is correct, then the submitter seeks a correction of this policy to the former of the two interpretations noted.

Further to the above, the submitter suggests that the two parts of proposed Policy 9.2.1.Z consider limiting the assessment of effects to a nominated distance from the point of development discharge. Perhaps to a distance 2.0km downstream of the activity site. Any assessment of stormwater impacts further downstream generally becomes particularly difficult to assess with any reliability. Also, ultimately all stormwater flows will end up in a river, lake, harbour or Ocean, which if the second part of the policy is read literally, would always trigger the need for an assessment under this part. The submitter does not believe that this is the actual intent of the policy.

Policy 9.2.1.Y requires all subdivision in a new NDMA area to install an on-site stormwater management system. The submitter has several concerns about this policy. Complex on-site stormwater management systems should only be required where i) the land in question is a new greenfields site, and ii) Council's stormwater modelling can clearly show that development of the site (without stormwater controls) is likely to lead to unacceptable adverse effects downstream. Where proposed NDMA regions occur that don't meet the above criteria, the requirement for stormwater infrastructure should be removed.

Policy 9.2.1.X is unclear in what it is trying to achieve. This is probably unnecessary and could be deleted.

Policy 9.2.1.AA is sensible. The submitter supports this policy. However, it is worth noting that where significant infrastructure costs are likely to be incurred by one landowner, which then benefit adjacent landowners, there may very well be a reluctance for one party to start the development process. It is notoriously difficult for agreement on infrastructure costs to be reached between two or more private developers. This situation can lead to land not being developed at a rate that the City would like to see. The submitter suggests that Council consider whether a development contributions clawback arrangement could be an effective method of enabling development where the first developer would otherwise be subject to a large proportion of the infrastructure costs.

Policy 9.2.1.3 is sensible. The submitter supports this policy.

Policy 9.2.1.4 requires future subdivision and development activities to ensure that the City's water supply system has sufficient capacity to service the development (either in its present form or by way of an upgrade to be installed ahead of development). The submitter would like to clarify if the zone density applicable to these areas has been used to calculate residential capacity for the City? If so, then the responsibility for the provision of adequate network infrastructure may rightly fall on Council's shoulders as directed by the NPS-UD 2020. Further to this, where Council accepts that it has an obligation to upgrade infrastructure to satisfy the requirements of the NPS-UD, how is this envisaged to occur? How quickly can landowners anticipate that Council would undertake these upgrades following a notice of development intent?

Policy 9.2.1.4A is somewhat similar to the above, however this imposes water supply requirements on land that is outside the public water supply areas. Again, if the network infrastructure is not adequate to support development in accordance with the zone density, the submitter considers that it is Council's responsibility to resolve this prior to development occurring. Perhaps a form of notice by a landowner to Council of a development intent could trigger a Council upgrade program? Presumably these upgrade works would then need to be undertaken relatively promptly.

Rules 9.5.3, 9.6.2, 9.7.4, 12.X, 15.11.3, 15.11.4, 15.11.5 and 15.12.3 (including all sub-rules) contain the assessment matters relating to subdivision and development activities. The policies discussed above are implemented through these assessment matter rules. The submitter seeks amendment of all of these rules, in particular where new infrastructure requirements are proposed, to address and resolve the concerns noted above. Please note that this submission is concerned with all proposed infrastructure requirements contained in the notified version of Variation 2, regardless of whether they are specifically mentioned above. These will be further discussed with the submitter's pre-hearing evidence, although it is the submitters hope that many of the concerns at hand can be resolved through engagement with Council staff through the upcoming months.

Rule 9.9 is a special case. This rule sets out the special information requirements for stormwater management plans. The submitter supports in principle the inclusion of guidance around stormwater management plans in the district plan as the design of these plans has been the subject of much discussion between consultants and Council staff over the last 12 or 18 months. However, the submitter proposes that the requirement for a

stormwater management plan can only be imposed where new greenfields sites are created under Variation 2. Existing residential land should not suffer the requirement for a stormwater management plan. The submitter is also concerned that certain elements of the rule are unreasonable, incorrect and/or insufficiently defined. Particular concerns relate to the following elements-

(i) Rule 9.9.X.1 is sensible, provided that this is adjusted to recognise any changes that result from policy considerations in respect of the NDMA categories described earlier.

(ii) Rule 9.9.X.2 should be adjusted so that Part 1 is removed, Part 2 is restricted to only certain categories of NDMA's, Part 4 is removed, and Part 5 is removed. Essentially, a stormwater management plan in an existing residential zone should only be required where the impermeable surfaces rules are breached. This relates to the permitted baseline assessment that has been recently established by an independent commissioner hearing (January 2021).

(iii) Rule 9.9.X.3.1 should be adjusted to read *"be prepared by a suitably qualified and experienced engineer, surveyor or other land development professional"*.

(iv) Rule 9.9.X.3.2 is sensible. The submitter supports this.

(v) Rule 9.9.X.3.3 is problematic. In reality this will be difficult to achieve as agreement between adjoining landowners is often overly complicated. Inevitably there is one owner (the developer) who is seeking consent from the other owners, with those other owners having a vested interest to negotiate a position that better suits their own future activities. The rule might be a good idea in principle, but in reality, this will simply obstruct (and possibly fatally prevent) development from being advanced. There needs to be an additional component to this rule that provides either-

   a. The ability for the initial developer to proceed with a stormwater solution on his/her land only, in the event that other owners do not agree to an overall NDMA solution, or
   b. The ability for Council to i) compulsorily acquire land for infrastructure from other landowners, and ii) implement a cost-sharing arrangement between the NDMA landowners using specially designed development contribution charges (allowing clawback of infrastructure costs by Council).

   This rule also needs to be adjusted to be applicable to only those NDMA areas that comprise greenfields sites and which have well-understood stormwater constraints.

(vi) Rule 9.9.X.3.4 requires some additional refinement, particularly in regard to the definition of terms. We suggest-

   a. Part 1 should be adjusted to require the calculation of pre-development flows at a 10% AEP for the critical storm duration of the development site (i.e. not the critical storm duration of the broader catchment). The critical storm duration of the development site will be equal to the time of concentration (ToC) across the development site. Where the stormwater management plan relates to a greenfields NDMA site, then the critical storm duration of the broader catchment should also be assessed.
   b. Part 2 should be adjusted in the same way as the Part 1 suggestions above.
   c. Part 3 can have the last 3 words (i.e. '...or water levels') removed.

d. Part 5 should be amended to insert the words '...or a reasonable alternative if justification is provided...' after the words '... in the underlying zone...'. Also, the final sentence referring to a NDMA area can be removed.
e. Part 9 and 11 require significantly more information. Please provide details of the types/methods of treatment anticipated and the expected degree of success that each type/method can provide. Several examples would be immensely helpful here.

(vii) Rule 9.9.Y.1 should be amended to refer to only those NDMA areas that do not have existing residential connection rights (at the development density presently allowed).

(viii) Rule 9.9.Y.2 should be amended to replace the words 'chartered engineer' with 'suitably qualified and experienced engineer or other land development professional'.

(ix) Rule 9.9.Y.3 should be adjusted in the same way as noted above for stormwater assessments, in a manner that enables development if the various owners of the NDMA cannot reach an agreement.

Rule 15.4.X appears to seek to remove the permitted baseline assessment, as provided for in the RMA, from Council's consideration of stormwater matters. This is a fundamentally flawed position, which seeks to construct a rule in a lower-level regulation to override that of a higher-level regulation. Recent consent decisions, made independently and in accordance with the RMA, have clearly found that the permitted baseline assessment is an appropriate test in respect of stormwater management (in the same way as this applies to the consideration of other effects). This proposed Rule must be rejected.

It is commonly understood that the development of land for housing in Dunedin City is significantly constrained by poor quality and under-sized network infrastructure. It is critical that Council understand and appreciate that passing the responsibility for upgrading this infrastructure onto landowners and developers through the proposed infrastructure provisions in Variation 2 (except in regard to the new greensfields sites) will not address this problem – it will instead make residential development less likely to occur. If Council is truly wanting more houses to be built, Council must resolve the infrastructure constraints that exist in its network through an enhanced investment program. In this regard, the two principal elements of Variation 2 (increased residential capacity and additional infrastructure requirements) are in many ways competing with each other.

Proposed Adjustments to Variation 2-

(i) Amendments as required to give effect to the discussion matters above.

Regarding all of the residential density policy provisions, including reduction of the GR1 Zone minimum site size to 400m^2, the provision for duplex construction, the density averaging allowances, and the new provisions for ancillary residential units, the submitter supports these proposed provisions.

Regarding miscellaneous provisions relating to service connections and transportation, we submit the following.

Variation 2 proposes new rules relating to service connections on subdivision sites. These provisions ae contained in Rule 9.3.7, and particularly Rules 9.3.7.X, 9.3.7.Y, 9.3.7.Z and 9.3.7.AA.

It is the opinion of the submitter that there is insufficient allowance within these service connection provisions for viable alternative supply options. Several examples include:

- Telecommunications using 'off-the-grid' sources (cell phone, radio link, satellite link, etc.).
- Electricity using 'off-the-grid' sources (wind, solar, generator, etc.).
- Water supply by rooftop collection in areas that cannot be efficiently serviced from a reticulated source.
- Foul drainage via septic tank (or secondary-treatment septic tank) in areas that cannot be efficiently serviced from a reticulated sewage system.
- Stormwater to ground in areas where there are subsurface gravel layers that can accommodate site discharge flows.

There are likely to be a number of other forms of alternative solution as well, which are just as capable of providing acceptable servicing outcomes.

The submitter seeks the inclusion within Rule 9.3.7 of suitable alternative servicing arrangements, where these are recognised as being acceptable (certainly all of the examples above, plus other forms of servicing that may be appropriate). Some of these options may require the applicant to demonstrate that the alternative solution will achieve a particular standard. Furthermore, it should be recognised that a number of these alternative solutions are better implemented at the time of building (rather than the time of subdivision). Accordingly, the inclusion of a provision that recognises the use of a consent notice to require installation of service connections as part of the building process is also sought by the submitter.

Variation 2 proposes several new transportation policies and rule adjustments. The submitter is concerned about Policy 6.2.3.Y and Rules 6.11.2.7 and 6.11.2.8. In particular, the submitter feels that there is no justification by Council to impose the expectation that any private access serving more than 12 sites should be designed and vested as a legal road. It is the submitter's consideration that private access serving an unlimited number of sites is entirely reasonable, and that a legal road should only be required when the other assessment matters trigger this (e.g. for reasons of network connectivity and/or safe and efficient operation of the transport network).

There are likely to be many situations in which it will be difficult for Council to impose these proposed rules, a common example being infill subdivision that occurs along existing private accessways (a situation that exists within the submission land). The allowance in the rules for '...unless the location or design of the subdivision makes this inappropriate' is not satisfactorily as there is no guidance as to how Council's discretion in this regard will be applied.

If a developer chooses to construct a private road, and purchasers choose to buy sites on that basis, this would seem like a perfectly reasonable outcome (and with no risk to Council).

It may be that Council's reasoning for an inclusion of a 12-site maximum is that there is a perception that the formation width requirement for 7+ sites (Rule 6.6.3.9.a.ii requires a minimum formed width of 3.5m) is inadequate. The submitter agrees with this perception, and proposes that a better solution to this, rather than requiring accessways that serve more than 12 sites to become legal road, would be to insert a new driveway width standard for 13+ sites (another row under Rule 6.6.3.9.a) that requires the formed width of the accessway to be a minimum of 5.5m. A further rule could be added to ensure that the accessway is fitted with a turning circle that can accommodate a rubbish collection vehicle (with easements to be granted to DCC for rubbish collection purposes). The legal width for the new accessway category could be set marginally wider, say 6.5m, than the required formed width (1.0m wider, consistent with the existing accessway width categories). This suggested alternative is expected to meet the outcomes sought by Council in the proposed Variation 2 changes while also minimising the volume of land set aside for roading purposes, thereby achieving a greater capacity for new residential housing.

Reasons for my views:

We believe that the residential capacity interests of the City can be well served by the changes described above. Further supporting information will be supplied to Council prior to the Variation 2 hearings, although we would also welcome the opportunity to engage with Council planners to discuss this submission ahead of the hearings should this be considered potentially fruitful.