

Regarding:
Variation 2 of the Dunedin City Council 2GP - GF11

From:
Neil John Brown and Linda Ellen Brown
175 Wakari Road, Dunedin
Previous submission number S225.001

23 August 2022

Introduction

We are the owners of 175 Wakari Road, Lot 2 DP 10300, which

- includes all of the ht-of-way from our western boundary to Wakari Road
- is a beneficiary, on three of its boundaries, of the no-build encumbrance on the title of Lot 1 DP10300
- is the servient tenement for fifteen dominant tenements that have right of way, under Easement Certificate 249201 from Wakari Road to their properties, being numbers 161, 163, 165, 167, 169, 171, 173, 177, 179, 181, 183, 185, 187, 189 and 191 Wakari Road.

In our previous submission on this matter we considered that changing the zoning would radically change the nature of this area that is adjacent to the Flagstaff-Mt Cargill significant rural landscape zone and that we believe acts as a second green belt for the city, with its attendant benefits for visual amenity, biodiversity, air quality, and attenuation of the impacts of climate change.

Accordingly we recommended rejecting the proposed change in zoning.

Recognising the need to provide additional housing sites for Dunedin, however, we also submitted that, if the change was not rejected, the proposal should be amended to include a structure plan mapped area rule to manage the encumbrance area to retain its natural values and give effect to its intended purpose of protecting the rural nature of the encumbrance area and be amended from Rural Residential 2 to no lesser density than Large Lot Residential 1.

Evidence of Darryl Sycamore on behalf of JKS Paddock Ltd - 4 August 2022

When we we received an email from the DCC on 11 August with a link to this document, we were concerned to note a number of factual errors, some statements that we consider to be misleading and 'opinions' and 'understandings' of the author that offer no substantiation.

Due to the short time available before the hearing on this aspect of Variation 2 we asked for this document to be withdrawn until we had an opportunity to present a response to it. We were, instead, advised to speak at the hearing.

The table on the following pages offers the accurate information that we have on hand, discusses wider aspects of some issues and seeks authoritative answers regarding others. For ease of reference our comments are linked to the paragraph numbers of Mr Sycamore's document.

| Paragraph | Comment |
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| 14 | <p>Mr Sycamore expresses his opinion that, following re-zoning to General Residential 1, area G11 meets the tests of ‘plan enabled’, ‘infrastructure ready’ and ‘feasible and reasonably expected to be realised’.</p> <p>Our view is that:</p> <ul style="list-style-type: none"> - General Residential 1 is not a pre-condition to meet these tests. Other (lower) densities of development, including Large Lot Residential 1 would also qualify. - Based on the DCC documentation we have perused, there appears to be uncertainty about the priorities or even the nature of infrastructure upgrades that would be necessary to service housing of the density proposed. Are there any definite programmes or timeframes for these works that we are unaware of? - Given issues of access to the JKS Paddock Ltd land without the acquisition of land that we own and do not intend to sell (see 29 below), feasibility and expectation of realisation are very uncertain. |
| 15 | <p>The document claims that ‘the proximity of the subject site enables the adoption of EV modes of transport or public transport by residents’ will support reductions in greenhouse gas emissions.</p> <p>Unless there is a means of enforcing EV modes or public transport by residents, it is difficult to see how the proposed development will achieve this.</p> <p>Wider consideration of climate change issues should also be addressed, including the impacts of reduced green space and increased reflective roof and hard surface areas from high-density development. The increased area of roofing and roading will also promote faster run-off of rainfall, whether or not climate change increases rainfall intensities. Larger lot sizes would more effectively mitigate these effects.</p> |
| 17 | <p>Mr Sycamore is of the opinion that, ‘after careful consideration’, re-zoning GF11 (presumably to General Residential 1) is consistent with Policy 2.6.2.1.</p> <p>He does not support this opinion with an analysis in relation to the specified criteria.</p> |
| 18 | <p>Based on visiting the site, reading technical reports and evidence commissioned by the applicant, Mr Sycamore’s view is that the development can be established whilst avoiding, remedying or mitigating any adverse effects on the environment and immediate neighbours.</p> <p>He fails to offer references for the technical reports and evidence or the qualifications of those who supplied them.</p> <p>Accordingly we consider his view to be unsubstantiated and of no more validity than our view that the opposite is the case.</p> |
| 22 | <p>Mr Sycamore refers to the sealed access to 175 Wakari Road, then states that it ‘tracks behind a number of properties that have direct frontage to Wakari Road’, implying that 185 - 191 have their own access directly by having frontage onto Wakari Road.</p> <p>In fact 16 properties have legal rights to access their properties via this route and 14 of the 16 use the right-of-way as their primary vehicular access.</p> |
| 25 | <p>While the distance of 4km from the city centre quoted in this paragraph may be correct, we doubt that ‘the average citizen’ would consider that cycling or even e-cycling to an elevation of more than 200 metres is an attractive commuting option.</p> |
| 27 | <p>The references to the land being non-productive are misleading, given that, in the 46 years we have lived next to it, it has been consistently in productive use for dairy cow grazing, calf fattening, sheep grazing, horse (regular size!) grazing and producing an annual crop of hay, silage or bialage, including the crop taken off and sold by Mr Kidston early in his ownership. Since then Mr Kidston has not continued productive use of the land.</p> |
| 28 | <p>This concept plan shows land that is not owned by JKS Paddock Ltd being incorporated in the design - see 29 below.</p> |

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| 29 | <p>Having stated in paragraph 22 that the access to the site is 9.3 m wide, this paragraph refers to a 'new 16m wide access formation'. This is achieved by showing part of Lot 2 DP 10300 (175 Wakari Road) as part of this access formation</p> <p>Mr Kidston (JKS Paddock Ltd) was advised by email on 8 November 2021, that we were not interested in pursuing his emailed proposal for obtaining this piece of land from us, so it should never have been presented to this hearing as though it were in any way feasible. Apart from any other considerations, Mr Kidston's proposed incorporation of our land would result in all current users of the right-of-way having to give way to all inward and outward traffic from a high-density subdivision in order to exit to Wakari Road.</p> |
| 30 | <p>The use of the encumbrance area for water retention ponds, does not indicate whether these are of a natural form or artificial constructions.</p> <p>If of natural form, we ask what consideration has been given to potential impacts on immediate neighbours in terms of:</p> <ul style="list-style-type: none"> - safety assessments for retained water systems - potential changes to ground-water conditions that may affect neighbouring land, driveways and structures - Proposed inclusion of mechanical pumping systems and structures to treat and/or transfer water to disposal points. <p>If the intention is artificial storage, this would be contrary to the provisions and intentions of the encumbrance.</p> |
| 34 | <p>Has the 'understanding' that the [unstated] servicing can fit within the site and Council network' been modelled or tested by experts, or is this only the author's assumption?</p> |
| 36 | <p>The right of way provides legal access to 16 properties, not just the nine referred to.</p> <p>The reference to proposing to retain the encumbrance is misleading. As noted in the s42A report, 'changes made through Variation 2 cannot remove the restrictions on this land.' It should be recognised that Mr Kidston (presumably knowingly) purchased the land with the encumbrance on the title, as did the previous owner.</p> |
| 37 & 38 | <p>While Council's landscape architect is asked to 'take some comfort that any sensible landscape suggestions will be considered or already adopted', the recommendation of the s42A report for a for a 5,000m² reserve centrally located within the site is then rejected in favour of more building sites.</p> <p>The existing Bain Reserve is condescendingly described as 'a bit sad comprising a set of swings and four rocks'.</p> <p>DCC records will show that the seats of the swings needed to be replaced recently - not due to vandalism but to being worn out! The park is a regularly used by local and visiting children.</p> <p>Our own grandchildren particularly like the eight (not four) rocks and the trees for climbing. They also love the freedom of the grass slope below the swings for various activities. We would suggest that the proposed 'improvements' might destroy what makes it special.</p> |
| 39 | <p>Mr Sycamore dismisses the many comments on transport issues and funding made by DCC Transport in Appendix D.4 of the s42A report without offering any reasons for this, suggesting leaving them for a subdivision application. These issues, however, are relevant to the present process of determining appropriate zoning for the land.</p> |
| 40 | <p>Mr Sycamore also dismisses Transport advice regarding the need for a bridge connecting to the Honeystone St land, seemingly due to cost and difficulty to the developer, rather than for functional transportation reasons and ignores recommendations for holistic development.</p> |
| 42 | <p>The comments on funding and delivering Three Waters upgrades gives the impression that this is fully programmed, yet the Three Waters s42A report acknowledges uncertainty over priority in relation to other re-zoned sites and the capacities of consultants and contractors to design and deliver the upgrades.</p> |
| 43 | <p>See comments on para 15 (above)</p> |

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| 44 | See comments on para 27 (above) |
| 45 -47 | The reason JKS Paddocks wish to have a separate Residential Transition Overlay for 195 Wakari Road, rather than the recommended RTZ for all GF11 land, was explained at the hearing on Monday 22 August as due primarily to the uncertainty of whether or when other GF11 land-owners would develop their land. This would make it difficult to achieve holistic outcomes, especially in relation to connectivity and transport upgrades. We consider this brings doubt on the viability of General Residential 1 zoning for GF11. |
| 48 | What analyses by which experts demonstrate that post-development flows will be no greater than pre-development flows, as claimed? |
| 49 | What reasons can be offered for JKS Paddocks not providing the recommended 5,000m ² reserve, centrally located within the site, for the benefit of the additional residents of the proposed development, leaving the Bain Reserve unchanged. |
| 53 & 54 | See 36 (above) regarding 'seeks to retain and utilise this area'. Our submission did not envisage the possibility of removal of the encumbrance on the title. We sought assurance through a plan mapped area rule to manage the uses of the encumbrance to retain its natural values and give effect to its intended purposes. While we generally approve of the current indications of use, we still wish to have some reassurance that this will be delivered and that infrastructural uses such as water retention and treatment, fencing etc will be conducive to the intentions of the encumbrance. |
| 55 | The opinion that the area of the encumbrance is sufficient to negate the need for the Council-recommended centrally located reserve, and describing a reserves as 'to sterilise' further land perhaps indicates how little consideration for reserve areas this proposal shows. Given that much of the encumbrance will be in plantings (and perhaps water retention) and is on the periphery of the site, it is unlikely to provide anything like 5,000m ² of reserve and certainly not in a central location. |
| 56 | Our primary view is that none of the land should be re-zoned General Residential 1 from the current Rural Residential 2. |
| 58 | Who is the 'land engineer' who advised the proposed development can be carried out without introducing new effects and what qualifications do they hold? |
| 60 | We disagree that any development will not impact the local supply of food. As rural land, the property has been used to graze stock and grow stock food. Lower density land units will frequently be used to home-grow food. Fruit trees, vegetable gardens and even raising stock for food are all possible on larger units. |
| 69 | This statement is at odds with the DCC Three Waters report referred to in 42 (above). |
| 70 | Based on the comments on Transportation and Three Waters referred to above we find this statement unsupportable. |
| 72 | Mr Sycamore's conclusion that the proposal is 'infrastructure ready' is not supported by facts, given the Transport and Three Waters reports to the contrary in the Councils s42A review. |

Summary

The use of this proposed subdivision to support Variation 2 re-zoning of GF11 from Rural Residential 2 to General Residential 1 relies on its meeting the criteria of:

- plan enabled; and
- infrastructure-ready; and
- feasible and reasonably expected to be realised.

We contend that

- plan-enabled does not exclude a re-zoning at a lower density than General Residential 1

- the evidence of Council regarding its capacity to evaluate, prioritise, design and upgrade infrastructure to service the proposed subdivision indicates that it is far from infrastructure-ready.
- the need to acquire land that we do not intend to sell to enable the access shown for the proposed subdivision brings into question its feasibility and expectation of realisation.

Conclusion

The proposed subdivision fails to demonstrate that re-zoning GF11 from Rural Residential 2 to General Residential 1 is appropriate.

Recommendations

That GF11 should remain Rural Residential 2.

That if GF11 does not remain Rural Residential 2 it should be re-zoned to no lower density than Large Lot Residential 1 and include a structure plan mapped area rule to manage the encumbrance area to ensure retention of natural values and give effect to its intended purpose of protecting the rural nature of the encumbrance area.