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Sent: Thursday, 4 March 2021 11:21 a.m.
To: District Plan Submissions
Subject: [#TM-D12178] Submission by GTJM Property Ltd
Attachments: Submission of GTJM Property for Variation 2.pdf

Good morning,
Please find attached a submission by GTJM Property Limited on Proposed Variation 2 of the 2GP.

I would be grateful for an email acknowledging receipt.

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SUBMISSION ON THE DUNEDIN CITY COUNCIL'S PROPOSED VARIATION 2 OF THE SECOND GENERATION DISTRICT PLAN

Form 5

Submission on publicly notified proposal for policy statement or plan
Clause 6 of First Schedule, Resource Management Act 1991

To: Dunedin City Council
districtplansubmissions@dcc.govt.nz

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for
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This is a submission on the following proposed plan change – Variation 2 of the Second Generation District Plan.

GTJM Property Limited could not gain an advantage in trade competition through this submission.

The specific provisions of the proposal that the submission relates to and the decisions we seek from Council are as detailed on the following pages.

GTJM Property Limited wishes to be heard in support of this submission.

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SUBMISSION ON VARIATION 2 OF THE SECOND GENERATION DISTRICT PLAN

1. INTRODUCTION

- 1.1 GTJM Property Limited welcomes the opportunity to submit to the Variation 2 of the 2GP.
- 1.2 They own the property at 336 and 336A Portobello Road which has a northerly aspect and is offered sweeping views over the Otago Harbour, west harbour landforms and the hinterland mountains.
- 1.3 The site is a semi-regular property oriented north-south behind the first row of housing adjacent Portobello Road. The site has a narrow leg-in heading west out to Weller Road running alongside the title of 336A Portobello Rd, itself a small rectangular parcel.
- 1.4 The site is zoned Rural Residential 2 in the Dunedin City Second-Generation District Plan (2GP). It is subject to an archaeological alert overlay and is partially within the North-West Peninsula Significant Natural Landscape (SNL) zone.
- 1.5 Land use consent (LUC-2020-106) was obtained in May 2020 to authorise a new dwelling which extends over the boundary into the SNL.
- 1.6 As part of the land capability assessment of Variation 2, Council identified the site as being suitable for further intensification. Variation 2 now seeks to rezone the lower extent of the site to Township & Settlement consistent with the surrounding land. The upper portion of the site which is within the SNL will remain as Rural Residential 2.
- 1.7 GTJM Property Limited support the proposed rezoning of the land to Township & Settlement.

2. SITE DESCRIPTION

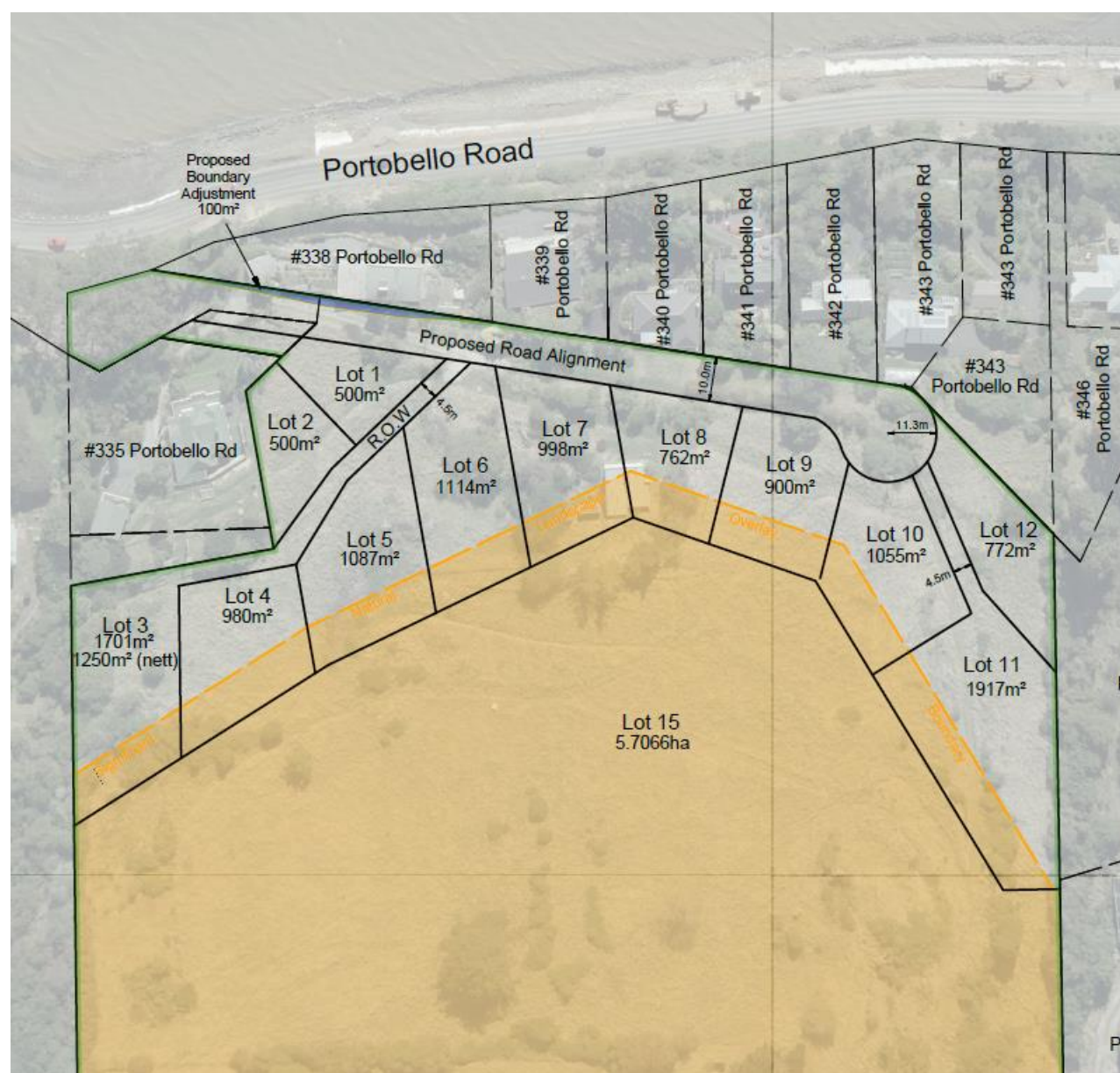
- 2.1 The property comprises a number of parcels in two Records of Title.
- 2.2 The property of 336 Portobello Rd is contained in record of title number OT312/165 (Limited as to Parcels) and contains an area of 7.28 hectares. It is legally described as Lot 25 DP 5628 and Part Sections 45-46 Upper Harbour East Survey District. Lot 25 DP 5628 is a small parcel which fronts onto and provides legal access to Weller Street.
- 2.3 The property of 336A Portobello Rd is contained in record of title number OT310/57 and contains an area of 222m². It is legally described as Lot 22 DP 5628 and is legally landlocked. Physical access to this title relies on illegal access over 336 Portobello Road.
- 2.4 The site has legal frontage to Weller Street, although this comes with some constraints.
- 2.5 DCC Water and Drainage Service GIS records indicates that a DCC owned 100mm foul sewer is located within or near the site as it fronts Portobello Road ending in a manhole. This main itself drains via gravity to the East Harbour No.2 pumping station. Crossing through the south eastern corner of the site is the DCC's 150mm water trunk main circa 1968.
- 2.6 Other than a narrow section alongside the rear of the northern neighbouring properties the site rises steeply up toward the south with an average grade of 1v in 3h. There are no known natural hazards

recorded in the 2GP for the subject site. It is noted however, that the 2019 LIM refers to a Class 3 hazard risk based on a historical broad assessment¹.

- 2.7 The site is subject to a live appeal (ENV-2018-CHC-285) by The Preservation Coalition Trust which relates to the SNL.

3.0 VARIATION 2 REZONING AND DEVELOPMENT CONCEPT

- 3.1 Council staff carried out a site visit to assess whether the site was suitable for further development. It was accepted the site met the initial criteria for inclusion in Variation 2.
- 3.2 GTJM Property has since obtained a high level transportation assessment and prepared a site plan of their intentions should the Hearings Panel adopt the rezoning proposal.



- 3.3 The proposed site layout seeks to adopt the most efficient use of the land whilst respecting the topographical constraints and the SNL in the upper extent of the property. Key aspects of the plan include:

¹ Effects of Basement Lithology, Regolith and Slope on Landslide Potential, Otago Peninsula, New Zealand. Leslie (1974).

- The creation of 12 new lots,
- Consent notices will be adopted for each new unit controlling the form, colours and materials of bulk to ensure they respect the existing controls for landscape zones.
- A revised access formation and passing bay to improve vehicle access and visibility,
- A 10m wide proposed road formation, with a 22m diameter turning head,
- A 4.5m wide Right of Way
- Formalising the access rights to #335 Portobello Road. This property currently extends into the subject site. GTJM Property welcome the opportunity to remedy the existing issues associated with access.
- Lots 3-11 will each have a portion of the SNL within the rear yard where a consent notice is volunteered limiting any development to that authorised as a permitted activity.
- Proposed Lot 15, comprising 5.7 hectares, being the remainder of the SNL will be protected in perpetuity. This area will be progressively planted out in native plant species typical of the peninsula. Several paths and discrete areas within the SNL will be left unplanted and grassed with outdoor furniture. Proposed Lots 3-12 will each have rights to use the land for their families enjoyment to utilise the area.
- All aspects of the development will be mindful of the relief sought in the live 2GP Environment Court appeal ENV-2018-CHC-285.

- 3.4 GHD Limited provided a high level transport assessment on the site and on what would be needed at the Weller Street and Portobello Road intersection to identify areas where consideration is needed for a layout compliant with relevant design guidelines and planning rules (or an acceptable layout with mitigation).
- 3.5 The existing access does not comply with the 2GP standards, but it will be greatly improved as part of the development to provide an acceptably safe and connected transport outcome with suitable mitigation treatments. This will be detailed further during the hearing.
- 3.6 GTJM Property are currently in the process of obtaining
- visual simulations and a landscape assessment, and
 - site specific geotechnical assessment for each Lot.

4.0 SPECIFIC RELIEF

4.1 Infrastructure

We oppose the imposition of network upgrades as a condition of development.

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.

Relief Sought

1. That Council upgrade the network to enable the proposed development permitted under Variation 2, and
2. That infrastructural upgrades are funded by either development contributions and rates, and
3. That network upgrades are not a condition of development.

4.2 Rule 15.4.X The Permitted Baseline

Rule 15.4.X seeks to remove the permitted baseline assessment from Council's consideration of stormwater matters. We accept the permitted baseline is a matter of discretion on a case by case basis, however it provides a clear indication as to the effects arising from a permitted activity which

has undergone a Schedule 1 process. It is assumed the effects arising from a permitted activity are less than minor on the receiving environment.

Discounting the permitted baseline is a cynical attempt to dismiss any weight in favour of a development, which seeks to construct a rule in a lower-level regulation to override that of a higher-level regulation. Recent consent decisions have 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).

Relief Sought

1. That this provision be rejected.

- 4.3 336 Portobello Road has been identified as a greenfields development site, within which new residential activities are proposed to take place by virtue of the rezoning to Township & Settlement zone. The site is also subject to a New Development Mapped Area (NDMA) overlay provision which includes greater infrastructure controls.

GTJM Property considers it is inappropriate to impose new NDMA/infrastructure controls onto the submission property where these controls might negatively affect development and subdivision activities. This approach is inconsistent with the intent of Variation 2, specifically to enable additional housing supply.

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.

Relief Sought

1. That Council develop at their cost a full understanding of the infrastructural model and constraints, and
2. That the NDMA area is nuanced to reflect the full understanding of infrastructural capacity rather than ad hoc and precautionary.

- 4.4 Policy 9.2.1.1A

This policy seeks to impose 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.

Relief Sought

1. That the policy is deleted.

- 4.5 Policy 9.2.1.BB

This policy requires specified new development mapped areas to provide communal wastewater detention systems. GTJM is agreeable to this provided that the specified areas have been correctly assessed by Council in respect of infrastructure requirements rather than an ad hoc and precautionary approach.

4.6 Policy 9.2.1.Z

This policy requires development that contravenes the impermeable surfaces rules to demonstrate that the effects of stormwater will be no more than minor. GTJM seeks to clarify that subdivision and land use only triggers 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. In addition, all stormwater flows off the site will end up as a discharge to the harbour, 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.

Relief sought

1. That the policy is reworded to remove any ambiguity.

4.7 Policy 9.2.1.Y

This policy requires all subdivision in a new NDMA area to install an on-site stormwater management system. GTJM has several concerns about this policy. Primarily, there are some fundamental differences between the types of NDMA areas and 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 do not meet the above criteria, such as at 336 Portobello Road where stormwater goes to the harbour, the requirement for stormwater infrastructure should be removed.

Relief sought

1. Re-write this policy to relate only to those sites where both criteria are met.

4.8 Service connections onsite

Variation 2 proposes new rules relating to service connections on subdivision sites. These provisions are 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.

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.

Relief sought

1. That 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.

4.9 Transportation Provisions

Variation 2 proposes several new transportation policies and rule adjustments. is concerned about Policy 6.2.3.Y and Rules 6.11.2.7 and 6.11.2.8. 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.

GTJM Properties considers 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). This is particularly relevant for access to 336 Portobello Road.

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. The allowance in the rules for '...unless the location or design of the subdivision lacks certainty as there is no guidance as to how Council's discretion in this regard will be applied.

Should GTJM construct a private road for the proposed development at 336 Portobello Road, and purchasers choose to buy sites on that basis, this would seem like a perfectly reasonable outcome (and with no risk to Council).

Relief Sought

1. That the transportation provisions are drafted such that they enable (where the outcome will result in a safe and efficient development) are that the Council's discretion is clearly understood rather than on an ad hoc basis.

For Terramark Ltd



Darryl Sycamore
Resource Management Planner