

IN THE MATTER	the Resource Management Act 1991
AND	
IN THE MATTER	Variation 2 of the 2GP - Greenfields
BY	Spence Family Investments Limited and K & L Accomodation Limited <u>The Applicants</u>
AND	THE DUNEDIN CITY COUNCIL <u>The Council</u>

SUPPLEMENTARY STATEMENT OF DARRYL SYCAMORE

25 AUGUST 2022

BACKGROUND

1. The subject site is located at 3 Brick Hill Road and 18 Noyna Road, Sawyers Bay. The sites are held in separate Records of Title and are zoned Rural Hills Slope in the 2GP. The lower extent of 18 Noyna Road is within an archaeological alert layer. Together, the land comprises approximately 3.4 hectares.
2. The property of at 3 Brick Hill Road, is legally described as Lot 2 Deposited Plan 1759 and Lot 1 Deposited Plan 7186 held in record of title OT352/52. The site comprises 2.1276 hectares. There are no encumbrances appended against the Record. These sites are in the name of Spence Family Investments Limited.
3. The property at 18 Noyna Road is contained in record of title number OT352/50 and contains an area of 1.3534 hectares. It is legally described as Lot 2 Deposited Plan 7186 and is in the name of K & L Accommodation Limited. The record is encumbered with a Building Line Restriction X13289 which relates to the frontage against State Highway 88.

THE PERMITTED BASELINE

4. The Hearing Panel sought further information in relation to the permitted baseline for 3 Brick Hill Road and 18 Noyna Street.
5. The submission and evidence for the site was silent in terms of the permitted baseline.
6. In the verbal submission, I referred to the permitted baseline a number of times which stated a residential unit up to 10m from the side yard boundary (assuming it had noise attenuating batts and active ventilation) would be permitted. This was incorrect.

7. It was my understanding at the time of preparing the verbal submission that the site was in fact Rural Residential 1. The site is zoned Rural Hill Slopes and is undersized in terms of being able to establish a residential activity as of right. There is no permitted baseline for residential use on the site.
8. On that basis, my evidence in terms of the baseline should be disregarded and the error is regrettable.
9. On the basis that no residential activity is permitted on the subject site, the question remains whether Port Otago's warehouse activity can be adversely affected by existing landowners on the site. The development at 105 Stevenson Avenue (shown in Figure 2 of my evidence in chief) is zoned Township and Settlement.
10. These residential lots are located approximately 28m from the boundary with the Port Otago site. Should noise or light spill become problematic for the owners of these properties, they would be within their rights to lodge a complaint to Council.

REVISED PROPOSAL

11. In lieu of the concerns raised by the submitter we now propose to establish a 20m buffer from the Port Otago boundary. Based on the concept plan provided this will remove five sites from the development, although I note the development will require a re-design which may result in a more efficient layout and a greater yield.
12. Along the Port Otago boundary we now propose to include
 - A stormwater detention system located as shown in the concept plan provided comprising 1,500m², and
 - An area of open space for recreation and amenity comprising approximately 3,000m² as shown in the image below in black. This area will include the planting of trees near the Port Otago property boundary that can provide a visual buffer from the Port activity and mitigate the effects of light spill should the 16m wide established vegetation within the port land be felled. The

balance of the reserve area will comprise grasses and shrubs supporting amenity, biodiversity and overall permeability of the overall development.



Area in black will be reserved for open space amenity area

13. In terms of bespoke conditions we consider a site specific overlay can be applied over the site in conjunction with the Township and Settlement zoning. We propose
 - The no complaints covenant to be registered over all sites,
 - In all rooms with noise sensitive activities they must have acoustic insulation to comply with rule 9.3.1.1, and
 - The site have a noise standard overlay consistent with Rule 9.3.6.4.

FEEDBACK FROM PORT OTAGO

14. Mr Andersen for Port Otago observed the verbal submissions for the applicants and helpfully offered some feedback. In response to those comments, my response is shown in red below.
 - a. If one house was erected under the current zoning, Port Otago could not meet the rural residential limit if noise at the boundary of the warehouse site was 60 dB.

This point is noted and the applicants have no desire to imperil Port Otago operations. We have responded by creating a 20m buffer to offset this risk and seek a bespoke approach to noise including noise attenuation within every residential unit and an outdoor noise standard consistent with Rule 9.3.6.4 being 60dB LAeq(15min) during the daytime, shoulder period and evenings (noting the 85dB LAFmax applies in the evenings also).

- b. The rural residential night time limits are the same as residential where there are noise sensitive activities within 20 metres of the boundary i.e. 40 dB which is unachievable with 60 dB at the boundary of the warehouse site under rule 9.3.6 2 meaning that you seem to be proposing a residential subdivision with knowledge that the specified noise limits could not be met by Port Otago which cannot be good planning as it requires Port Otago to both rely on existing use rights and to take steps to ensure they will not be lost during any quiet periods where activity at the site would not otherwise be necessary.

Noise diminishes under the inverse square law of 6dB for the doubling of distance from the noise source. We consider the proposed standards, no complaints covenant and proposed buffer will address these concerns.

- c. Rural residential limits would be OK if there was agreement that no noise sensitive activity would be within 20 metres of a boundary (60 dB night time) but I expect that could significantly limit the number of sites if there was a 20 metre buffer around a house and, if this is what was intended, then what is the advantage over the Harbourside Edge limits.

There is agreement that no residential activity will occur within 20m of the Port property. We consider with the proposed mitigations and buffer, that the risk of any development to the Port's interests are significantly less than the existing development at 105 Stevenson Avenue.

- d. It is essential to Port Otago that the night limit is 60 dB (the industrial, commercial and mixed use limit) in order that it does not have to rely on existing use rights and it can live with any solution that allows 60 dB at the warehouse boundary to continue, whether by an acknowledgement in the noise levels for residential use that the site is noisy or (preferably) by the developer taking acoustic steps to reduce a 60 dB noise limit at the boundary by 20 dB at the boundary of every residential property.

The applicants accept the Port's concerns are valid and are motivated to find a sensible solution to addressing them whilst creating a good quality development. We consider the mitigations proposed will allow the 60dB at the boundary to continue unimpeded.

- 15. We are hopeful the proposed mitigations address the concerns of Port Otago.