

## Submitter's Position in respect of 'Scope'.

A principal purpose of Variation 2 is to enable Dunedin City Council to meet its residential capacity obligations under the National Policy Statement on Urban Development 2020. It has been recognised by the Council that the existing housing capacity, as provided for by the 2GP, is currently insufficient. Variation 2 has been designed to address the identified shortfall through mechanisms such as new residential zone areas and adjustments to the density rules within existing residential zones.

Variation 2 has employed a 'selective' assessment method to narrow down the extent to which new residential zone areas have been identified. In support of this, the Council has stated:

*Proposed changes have been informed by initial work on the next Future Development Strategy (Spatial Plan), which will look at how and where the city will grow over the next 30 years. A small number of areas were selected for more detailed evaluation as part of Variation 2. Other sites were suggested by landowners or Dunedin residents as part of the Planning for Housing survey in 2019 and key stakeholder consultation. That feedback aimed to help shape how and where the city should grow and has helped develop the proposed changes in Variation 2. All sites were evaluated against criteria including (but not limited to) natural hazards, the availability of 3 Waters infrastructure and access to services and public transport. The process involved ongoing discussions with key stakeholders and, for greenfield sites, landowners whose sites were evaluated as part of Variation 2.<sup>1</sup>*

*Variation 2 is not a full review of the 2GP's residential section's rule framework or zoning across the city. A more comprehensive updated plan for the next 30 years will be developed separately as part of the next Spatial Plan, which will be jointly prepared with the Otago Regional Council (ORC).<sup>2</sup>*

*The 2GP is still in the appeal phase and re-opening large parts of the plan to a new variation will slow the progress towards making the plan fully operative. Until the 2GP is operative, parts of the 2006 District Plan continue to apply along with the 2GP provisions, which increases the complexity and costs of processing consents. The changes proposed in Variation 2 are therefore as focussed as possible, and scope has been deliberately limited to avoid re-consideration of a wide range of provisions.<sup>3</sup>*

Whilst the submitter applauds Council desire for the Variation 2 process to be implemented as quickly as possible, it is considered that the selective identification of assessment properties cannot be relied upon as a technique to identify the complete package of parcels of land that best achieves the principal objective of Variation 2. In this regard, the section 32 report, which assesses only the parcels that have been selectively identified, is considered to be incomplete.

The Resource Management Act 1991 (RMA) sets out the requirements for preparation of a section 32 report (underlined text is author's emphasis)-

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<sup>1</sup> [https://www.dunedin.govt.nz/data/assets/pdf\\_file/0007/806182/Variation-2-General-Public-Fact-Sheet.pdf](https://www.dunedin.govt.nz/data/assets/pdf_file/0007/806182/Variation-2-General-Public-Fact-Sheet.pdf)

<sup>2</sup> <https://www.dunedin.govt.nz/council/district-plan/2nd-generation-district-plan/plan-change-dis-2021-1-variation-2#doc>

<sup>3</sup> [https://www.dunedin.govt.nz/data/assets/pdf\\_file/0007/806182/Variation-2-General-Public-Fact-Sheet.pdf](https://www.dunedin.govt.nz/data/assets/pdf_file/0007/806182/Variation-2-General-Public-Fact-Sheet.pdf)

- s32 *Requirements for preparing and publishing evaluation reports*
- (1) *An evaluation report required under this Act must—*
- (a) *examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
  - (b) *examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—*
    - (i) *identifying other reasonably practicable options for achieving the objectives; and*
    - (ii) *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
    - (iii) *summarising the reasons for deciding on the provisions; and*
  - (c) *contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*

The overarching objective of Variation 2 is to enable Dunedin City to meet its statutory residential capacity obligations. Section 32(1)(a) RMA requires that this objective is met in the manner that is most appropriate to achieve the purpose of the Act. Section 32(1)(b)(i) RMA requires the s32 evaluation to consider all reasonably practicable options for achieving the objective.

The purpose of the RMA is (underlined text is author's emphasis)-

- 5 *Purpose*
- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
  - (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
    - (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
    - (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
    - (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

It is submitted that the Council's decision to limit the scope of Variation 2 to only a selection of nominated land parcels presents a risk that the most appropriate method of achieving the objective of the variation may not be reached. It is clear that there are many parcels of land within the City have not had their potential for residential rezoning evaluated. Accordingly, it is the submitter's view that the s32 report completed in support of Variation 2 is currently incomplete and that the report may not be consistent with the expectations of the RMA, with particular regard to the consideration of 'other reasonably practicable options' as required by s32(1)(b)(i).

This matter is further complicated by the National Policy Statement on Urban Development 2020 (NPS-UD), which requires (underlined text is author's emphasis)-

- 3.2 *Sufficient development capacity for housing*
- (1) *Every tier 1, 2, and 3 local authority must provide at least sufficient development capacity in its region or district to meet expected demand for housing:*
- (a) *in existing and new urban areas; and*
  - (b) *for both standalone dwellings and attached dwellings; and*
  - (c) *in the short term, medium term, and long term.*
- (2) *In order to be sufficient to meet expected demand for housing, the development capacity must be:*
- (a) *plan-enabled (see clause 3.4(1)); and*
  - (b) *infrastructure-ready (see clause 3.4(3)); and*
  - (c) *feasible and reasonably expected to be realised (see clause 3.26); and*
  - (d) *for tier 1 and 2 local authorities only, meet the expected demand plus the appropriate competitiveness margin (see clause 3.22)*

The expectation of the NPS-UD is that residential capacity is achieved in areas that are 'infrastructure-ready' and 'feasible and reasonably expected to be realised'. The RMA requires identification of the most appropriate options. It is not unreasonable to consider that there might well be any number of parcels of land within the City that have not been evaluated through the Variation 2 process, which may also present an appropriate option to satisfy the residential capacity obligations.

Until a further s32 evaluation process is undertaken (as per s32AA RMA), with a view to assessing the suitability of the submission land to contribute to the City's residential capacity, it is impossible to have confidence that the purpose of the RMA will be best served by Variation 2.

The submitter concludes the following-

1. The property referred to in the associated submission may offer an appropriate method to the City to increase its residential capacity.
2. The s32 evaluation undertaken as part of Variation 2 to-date is incomplete as this evaluation has not considered the submission property. A further s32 evaluation is necessary in respect of the submission property.
3. The submission cannot be considered 'out-of-scope' of Variation 2 as it seeks to provide for an outcome that achieves the City's obligations under the NPS-UD in a manner that is consistent with the purpose of the RMA.