

GORDON ROAD FLOODWAY CONSULTATION SUBMISSION FORM



SECOND
GENERATION
DISTRICT PLAN

This is a submission on the Gordon Road Floodway consultation in relation to the Second Generation Dunedin City District Plan (2GP). Your submission must be lodged with the Dunedin City Council by midnight on Friday 31 March 2023. 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 the Gordon Road Floodway consultation. 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

Email: districtplansubmissions@dcc.govt.nz

Post to: Submission on Gordon Road Floodway, 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: Rebekah

Last name: Jenkins

Organisation (if applicable):

Contact person/agent (if different to submitter):

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City/town:

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Submission

Submissions on Gordon Road Floodway consultation can only be made on the provisions or mapping which are under consultation, 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 consultation your submission relates to.

My submission seeks the following decision from the Council:

Apply the Hazard 1A (Flood) Overlay Zone to the whole floodway

✓ Do not apply the Hazard 1A (Flood) Overlay Zone to the whole floodway

Apply the Hazard 1A (Flood) Overlay Zone to part of the floodway. (Please give precise details, such as a description (please attach a map if possible) of the preferred extent of the proposed Hazard 1A (Flood) Overlay Zone.)

Reasons for my views (you may attach supporting documents):

You can attach additional pages as needed.

Signature:



Date: 5-4-23

Reasons for my views (you may attach supporting documents):

- The proposed rezoning will result in the activity status for natural hazard sensitive activities changing from non-complying to prohibited.
- While a non-complying activity status is still an onerous activity status and sets a high statutory barrier for consenting, it does not entirely “close the door” for such activities.
- As identified in the notified material, there are a number of existing residential houses within these areas. A prohibited activity status prevents these land owners from continuing to utilize their properties for the intended purpose for which they originally purchased them. The activity status also prevents landowners from taking proactive measures to potentially mitigate the effects of flooding on their residential dwellings. For example:
 - Increasing the minimum floor levels of their dwelling through foundation design (such as piles);
 - Locating the less sensitive parts of the residential activities in the lower levels of the property, for example, garaging;
 - Exploring opportunities to rebuild/relocate dwellings to areas of high ground within a property.
- Furthermore, in the event of a significant flood, the opportunity for land owners to only exercise existing use rights based on the nature and scale of the existing dwelling will only encourage more “like for like” development. It will not provide an opportunity for the above types of measures to be adopted in the design of the residential property.
- I am familiar with some Council’s suggesting the “nature and scale” also means “character”. If a similar approach is applied by the Dunedin City Council, landowners will be effectively required to rebuild like for like and not utilize advances in building technology and materials, nor the use of low impact design which would provide better outcomes in this environment.
- The revised mapping of the Floodways includes Hazard Vulnerability Classifications from H1 to H5. The level of flood hazard exposure and risk therefore varies considerably across the floodway (and this is acknowledged by the ORC affidavits, such as by Jean Luc Payan), yet all areas will be treated equally with the same blunt instrument approach.
- Further to the above, it would appear that there are extensive areas to the north of the floodway that are subject to the same classification (H1 to H4) yet the same level of land use control is not applied to these areas.

- Having purchased the property in 2019, we did so knowing the risks associated with residing in this location. We therefore actively monitor water levels and ORC updates during rainfall events have an evacuation plan for our house in the event of a flood event. This includes proactively preparing the property for such an event (removing stock, using sand bags and boards at potential entry points, turning off the power and water supply etc etc) and being prepared to proactively evacuate should the need arise.
- The supporting material for the change in activity status from non-complying to prohibited includes statements that “It is critical that the safe operation and integrity of the spillway and floodway are maintained and protected in order to guarantee the level of service of the flood protection scheme the Mosgiel community is relying on”. It is not clear how changing the activity status from non-complying to prohibited would affect the “safe operation or integrity of the spillway or floodway” nor how it would reduce the level of service for Mosgiel, given the spillway would continue to preferentially spill into this area irrespective of the activity status change. Notably other farm buildings, fencing etc area still provided for in this area and therefore will have the same diversionary affect as buildings accommodating sensitive activities.
- While I appreciate that the ORC and DCC does not wish to see further residential development within this area, it is simply that the existing landowners want to be able to continue to exercise their existing use rights and maintain at least an ability to apply for resource consent to undertake residential activity within their sites. The existing density rules are such that if an existing dwelling is already located within a title, no further residential activity will be enabled. The outcome being sought by the ORC and DCC can therefore be achieved without the prohibited activity status, and also allows land owners to at least entertain the notion that it can do some residential alterations to their existing properties.
- I understand, based on the affidavit of Jean Luc Payan that the ORC operates, maintains and monitors the Scheme Flood Banks to a “high standard”. I also understand that irrespective of the maintenance and monitoring regime, reliance of earth floodbanks for flood protection also means accepting some residual risk exposure. I note however, that the suggestion that breaches in the scheme floodbank network could potentially modify the characteristics of the flood hazard (duration, depth and velocity) in the Gordon Road Floodway applies to any built up area located behind flood banks (such as Mosgiel) and is not unique to the this area.
- The section 32 evaluation does not adequately address the costs / benefits of the change:

- The need to rely on existing use rights is identified as a cost. As noted earlier, this will have implications for existing land owners and will prevent them from taking their own action to mitigate the effects of flooding.
- Another costs identified is the inability for land owners to erect new dwellings. As noted in the report, there are only seven sites without existing dwellings and two of these have land that extends beyond the floodway. They therefore have an ability to construct a new dwelling elsewhere on their land (despite the level of risk being the same - H1 to H4) as a restricted discretionary activity.
- The section 32 evaluation itself notes that further residential activity on the existing sites would require a resource consent and notes “gaining resource consent would be challenging, even setting aside the implications of the hazard overlay”. This is due to the density requirements of the plan. If the Council’s primary concern is about the increased risk associated with further residential activity establishing within the floodway (which appears to be case based on the affidavits and the sole “benefit” of the change quantified in the section 32 relating to this matter), by their own admission this would be challenging from a consenting perspective. Furthermore, the ORC holds a designation over the land, therefore s176 approval would be required for any activity that prevents or hinders a public work.
- The potential affect on property values has not been quantified and therefore not appropriately taken into consideration as part of the evaluation.
- The section 32 indicates that Option 3 is not appropriate as it would not give effect to the 2GP objectives due to the risk to people and property, particularly in the higher flood category area. This is a cursory assessment, at best, as:
 - the likelihood of obtaining consent for further residential activities is low (and acknowledged by the DCC) due to density rules.
 - The risk to existing people and property occupying this area is not increasing, it is existing and remains unchanged as a result of the change in activity status.
 - The outcomes sought by the ORC and DCC through its appeal can be effectively achieved by a NC activity.
- Overall, the proposed changes have not been appropriately evaluated in terms of section 32 of the RMA as there are alternative options to the ORC and DCC that have not been considered or formed part of their evaluation.

- If the Council's are concerned about residential intensification, perhaps an alternative approach would be to prohibit "new" residential activity, thus allowing existing land owners to continue to apply for resource consents to additions/alterations to their existing residential dwellings.

I therefore submit that:

- The area should not be rezoned to Hazard 1A, as proposed by the ORC and DCC.
- A non-complying activity status should continue to apply to allow land owners some (albeit limited) ability to continue to utilize their land for residential purposes.
- In the alternative, the zone rules could provide for one residential dwelling within a selected list of titles located within the floodway. This selected list could be all those properties that contain an existing dwelling at the time the DP was notified and where the title does not include an area outside of the floodway of a suitable size to accommodate a dwelling.
- Subject to the provisions in section 85, we should be appropriately compensated.