



SECOND GENERATION DISTRICT PLAN

Variation 2

Additional Housing Capacity

Part 1 – Provisions

(Except 3 Waters Provisions)

Response to Minute 6

**(Change B6 – Exemption to minimum site size for existing
development
Change D2 – Roads at the time of subdivision)**

Paul Freeland
Principal Policy Advisor, City Development

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Contents

1.0	Introduction.....	3
2.0	Change B6 – Exemption to minimum site size for existing development.....	3
2.1	<i>Providing for concurrent land use and subdivision applications</i>	<i>3</i>
3.0	Change D2 – Roads at the time of subdivision	4
4.0	Summary	5

1.0 Introduction

1. This report is prepared in partial response to Minute 6 dated 1 October 2021 issued by the Variation 2 Hearing Panel. Minute 6 requested witness conferencing on the following matters:
 - Change B6 (exemption to minimum site size for existing development)
 - Change D2 (Roads at the time of subdivision)
2. Minute 6 requested a response on these matters by Friday 15th October 2021.

2.0 Change B6 – Exemption to minimum site size for existing development

2.1 Providing for concurrent land use and subdivision applications

3. Minute 6 included the following:

At the hearing representatives of TGC Holdings and Otakou Health presented alternative drafting of the rule relating to an exemption to the minimum site size performance standard for existing development.

The Reporting Officer, in her Reply Report (posted on the Variation 2 web page) has responded to that and has recommended some additional amendments to the rule to meet the concerns of the submitters.

We direct that the Reporting Officer (or Mr Freeland the Senior Planner in support for the DCC) liaise with the witnesses for those submitters and please provide a statement with any agreed wording to assist the Panel for its consideration. Where agreed wording cannot be settled on, the statement is to explain any differences that still exist between the parties.

4. I met with representatives for representatives for TGC Holdings Limited (James Nicol) and Ōtākou Health Limited (Nigel Bryce) and the two main issues with regard to this topic were:
 - a. The lack of clarity with the proposed changes; and
 - b. Not providing for fee-simple subdivisions as restricted discretionary activities where the land use activity contravenes bulk and location type performance standards but complies with the density performance standard.
5. The DCC's principal concern is that small sites may be created before any residential units are built, and resultant issues with the density of development and the ability to provide sufficient 3 Waters infrastructure. The current proposed changes manage this by noting that a condition of the subdivision consent will require the development to be established in accordance with the approved land use consent prior to certification of the survey plan pursuant to section 223 of the RMA.
6. The TGC Holdings submission helpfully referred to the approach provided for in the Auckland Unitary Plan where subdivision of land which has an approved land use consent has a restricted discretionary activity status (Rule E38.4.2.(A14)).
7. I have also discussed this approach with Ms Lianne Darby, DCC Planner, Resource Consents, and she has confirmed that, providing the land use has: existing use rights; is a permitted activity; or is in accordance with and an approved land use resource consent; the associated subdivision consent is granted regardless of the activity status.

8. As a result of these discussions the parties have agreed to make further amendments to the proposed exception to the minimum site size performance standard for existing development as follows:
 - a. Amend Rule 15.7.4.2 to make the contravention of the minimum site size performance standard for multi-unit development a restricted discretionary activity (rather than non-complying), when certain conditions are met.
 - b. Add a new clause Y to Rule 15.7.4.2 to apply restricted discretionary activity status for contravention of the minimum site size performance standard for fee simple subdivision of a proposed multi-unit development that is applied for concurrently with the subdivision application or already has land use consent but has not been built, where it meets the density performance standard;
 - c. Amend the assessment rule for restricted discretionary contravention of performance standards for subdivision at Rule 15.10.5.4 to include assessment guidance for the contravention, including conditions of consent that may be imposed; and
 - d. Retain Rule 15.7.4.1.j.X as recommended in the Section 42A Report for Change B6 (to address the fee simple subdivision of existing or permitted land use and associated development, such as duplexes).
9. This option will require compliance with the Density performance standard (Rule 15.5.2) but will enable subdivision of proposed development that requires resource consent for other contraventions, or where land use consent has been granted and the development has not been established, to be processed at the same time as a restricted discretionary activity.
10. I have attached a clean version of Rules 15.5.2 (Residential Zones: Density Performance Standard), 15.7.4 (Residential Zones: Minimum Site Size) and 15.10.5.4 (Residential Zones: Assessment of subdivision performance standard contraventions – minimum site size).

3.0 Change D2 – Roads at the time of subdivision

11. Minute 6 included the following:

Representatives of the submitter Survey & Spatial NZ Coastal Otago Branch presented suggested amended wording to the rule requiring a road at the time of subdivision. One concern we understood was the uncertainty as to when roads will be required, noting that the current rule requires this for accesses serving more than 12 sites, however Variation 2 proposes to remove the reference to 'sites' and replace it with 'likely to service more than 12 residential units'. We understood a concern to be that the rule could therefore be interpreted to apply to sites of at least 500m2 being eligible for two residential units in the form of duplexes, thereby creating uncertainty as to whether Council will require legal road for as few as 6 sites of that size.

The Reporting Officer has responded to that in her Reply Report, and has suggested some amendments to the relevant rule.

As for (a) above the Panel considers this is a matter where it seems possible some agreement may be able to be reached between the parties. We direct that the Reporting Officer or Mr Freeland the Senior Planner in support for the DCC and Mr Copland (Council's transportation expert) meet or otherwise exchange information with representatives of those submitters and please provide a statement with any agreed wording to assist the Panel for its consideration. We also invite any comment on the relevant policy wording. Where agreed wording cannot be settled on, the statement is to explain any differences that still exist between the parties.

12. I met with Kurt Bowen as a representative for Survey & Spatial NZ Coastal Branch together with Council transportation staff, Logan Copland, Planner and Trevor Watson, DCC Contractor, Transport Strategy. The main issues identified were:

- a. Uncertainty about when roads may be required at the time of subdivision;
 - b. Circumstances when a road may not be required; and
 - c. The amount of flexibility for Council to accept roads which are not developed to the full requirements set out in the Dunedin City Council *Code of Subdivision and Development (2010)*.
13. While I consider that good progress has been made, and that there is a willingness of all parties to arrive at appropriate wording to respond to the issues, unfortunately we have not been able to achieve this within the time available.
14. Respectfully, I request another week to advance the drafting for D2 to reach an agreed position and finalise the drafting.

4.0 Summary

15. The amendments proposed reflect constructive discussions over a relatively short space of time to try and reach agreed, clear and sensible provisions. I consider that all parties were generally in agreement as to what we were trying to achieve and primarily the difficulties were in finding suitable wording to reflect the outcomes being sought. I note that these recommendations, if adopted, will require additional checking for consequential changes.

15.5.2 Density

- Standard residential activities in any location and visitor accommodation in the George Street North residential heritage precinct **{Change F5}** (or any combination of the two on a single site) must not exceed the following density limits:

Zone		i. Minimum site area for a residential unit (excluding ancillary residential units) {Change A1}	ii. Maximum development potential per site
a.	General Residential 1 Zone	1 per 400m ² {Change A3} or 2 per 500m ² where in a single residential building or in the form of a duplex {Change A2}	1 habitable room per 100m ²
b.	General Residential 2 Zone not within a wastewater constraint mapped area or the South Dunedin mapped area {Change F3-3}	N/A	1 habitable room per 45m ²
c.	General Residential 2 Zone within a wastewater constraint mapped area {Change F3-3}	N/A	1 habitable room per 100m ²
d.	General Residential 2 Zone within the South Dunedin mapped area	N/A	1 habitable room per 60m ²
e.	Inner City Residential Zone	N/A	1 habitable room per 45m ²
f.	Low Density Residential Zone	1 per 750m ²	1 habitable room per 150m ²

Zone		i. Minimum site area for a residential unit (excluding ancillary residential units) <i>{Change A1}</i>	ii. Maximum development potential per site
g.	Large Lot Residential 1 Zone	1 per 2000m ²	1 habitable room per 400m ²
h.	Large Lot Residential 2 Zone	1 per 3500m ²	1 habitable room per 700m ²
i.	Township and Settlement Zone not within a no DCC reticulated wastewater mapped area	1 per 400m ² <i>{Change A3}</i> or 2 per 500m ² where in a single residential building or in the form of a duplex <i>{Change A2}</i>	1 habitable room per 100m ²
j.	Township and Settlement Zone within a no DCC reticulated wastewater mapped area	1 per 1000m ²	1 habitable room per 200m ²

k. Except in all zones, other than the GR2 and ICR zones:

- i. a single residential unit may be erected on a site of any size; *{Change B3}*
- ii. one ancillary residential unit *{Change A1}* is allowed per site in association with a primary residential unit provided:
 1. the maximum development potential per site is not exceeded;
 - X the site size meets the minimum site size performance standard in Rule 15.7.4; and *{Change A1}*
 - Y it does not result in more than two residential units on the site, including the ancillary residential unit. *{Change A2}*

2. For the purposes of this standard:

- a. the calculation of habitable rooms includes rooms in ancillary residential units *{Change A1}* and sleep outs;
- b. the calculation of minimum site area includes access legs provided for rear sites; and *{Change B4}*
- c. the calculation of maximum development potential applies to:

- X. visitor accommodation in the George Street North residential heritage precinct; **{Change F5}**
 - Y. standard residential activity **{Change A2}** in the Inner City Residential and General Residential 2 Zones, and
 - Z. standard residential activity outside the Inner City Residential and General Residential 2 Zones only **{Change A2}** for determining whether an ancillary residential unit **{Change A1}**, or second unit in a single residential building or in the form of a duplex, can be developed **{Change A2}**.
3. More than one residential building (other than an ancillary residential unit) **{Change A1}** may only be built on a site if all residential buildings are able to meet all the following performance standards if they were ever subdivided into separate sites:
- a. site coverage;
 - b. height in relation to boundary;
 - c. setbacks; and
 - d. access.
4. Standard residential activity that contravenes the performance standard for density is a non-complying activity, except contravention of the following standards only is a restricted discretionary activity: **{Change E9}**
- a. papakāika that contravenes the performance standards for density;
 - 2. standard residential in the General Residential 2 Zone (wastewater **constraint mapped area**) **{Change F3-3}** that contravenes the performance standards for maximum development potential per site (15.5.2.1.c.ii), provided the maximum development potential per site of the activity proposed does not exceed 1 habitable room per 45m²;
 - 3. contravention of Rule 15.5.2.3 (bulk and location performance standards for multiple residential buildings on the same site); and
 - X. standard residential in the ICR Zone that contravenes the performance standard for maximum development potential per site (15.5.2.1.e.ii), provided the maximum development potential per site of the activity proposed does not exceed 1 habitable room per 30m²; and
 - Y. social housing in the General Residential 1 and Township and Settlement zones (except in a **no DCC reticulated wastewater mapped area**) where it meets the density standard for General Residential 2. **{Change C1}**
5. Visitor accommodation in the George Street North residential heritage precinct **{Change F5}** that contravenes the performance standard for density is a discretionary activity.

15.7.4 Minimum Site Size

1. The minimum site size for new resultant sites is:

Zone		Minimum site size
a.	General Residential 1 Zone	400m ² <i>{Change A3}</i>
b.	General Residential 2 Zone - not within a wastewater constraint mapped area; or - within the wastewater constraint mapped area (Mosgiel) <i>{Change F3-3}</i>	300m ²
c.	General Residential 2 Zone within a wastewater constraint mapped area , except for the wastewater constraint mapped area (Mosgiel) <i>{Change F3-3}</i>	400m ² <i>{Change A3}</i>
d.	Inner City Residential Zone	200m ²
e.	Low Density Residential Zone	750m ²
f.	Large Lot Residential Zone 1	2000m ²
g.	Large Lot Residential Zone 2	3500m ²

Zone		Minimum site size
h.	Township and Settlement Zone not within a no DCC reticulated wastewater mapped area	400m ² <i>{Change A3}</i>
i.	Township and Settlement Zone within a no DCC reticulated wastewater mapped area	1000m ²

j. Except the following are exempt from the minimum site size: *{Change B6}*

1. resultant sites created and used solely for the following purposes are exempt from the minimum site size: *{Change B6}*

1. Scheduled ASBV or QEII covenant;
2. reserve;
3. access;
4. utility;
5. road; or

x. a resultant site in any residential zone (except within a **no DCC reticulated** wastewater **mapped area**):

1. that will contain at least one lawfully established habitable residential building (that was not established as a family flat or ancillary residential unit) prior to certification of the survey plan pursuant to section 223 of the RMA; and
2. that is of a size and shape that means the residential building is able to meet all the relevant land use and development performance standards as if it was new. *{Change B6}*

X. Minimum site size includes access legs for subdivision of sites up to 1200m² in the General Residential 1 Zone and Township and Settlement Zone (not within a **no DCC reticulated** wastewater **mapped area**) and for subdivision of all sites in other zones, but excludes access legs in all other cases. *{Change B4}*

2. General subdivision that contravenes the standard for minimum site size is non-complying, except in the following circumstances where the subdivision is restricted discretionary:

X. subdivision as described in Rule 15.7.4.1.j.ii.1 (*Minor referencing error – 15.7.4.1.j.x.1*) that does not meet the conditions in Rule 15.7.4.1.j.ii.2 (*minor referencing error – 15.7.4.1.j.x.2*); and **{Change B6}**

Y. a subdivision of a proposed multi-unit development which has an approved land use consent but the development has not been established, or land use consent is sought under Rule 15.3.4.5 concurrently with the subdivision application, and the standard residential activity complies with the density performance standard (Rule 15.5.2); and

a. a subdivision where any resultant site is below, but not less than, 75% of, the minimum site size and the average of the site sizes meets the minimum site size in Rule 15.7.4.1 **{Change B1}** where: **{Change B1, was previously marked Change B6 in error}**

i the subdivision does not result in any resultant site being of a size that could be further subdivided in accordance with the minimum site size performance standards, except as provided for in Rule 15.7.4.1.j.X; and

ii all undersized resultant sites are large enough to contain a building platform of at least 7m by 10m that meets the performance standards of this Plan including, but not limited to:

1. outdoor living space;
2. minimum car parking space;
3. setbacks from boundaries, water bodies, significant trees, National Grid transmission lines;
4. esplanade reserves and strips; and
5. maximum building site coverage and impermeable surfaces. **{Change B1, was previously marked Change B6 in error}**

15.10.5.4 Assessment of subdivision performance standard contraventions

Table 15.10.5 Assessment of subdivision performance standard contraventions			
Performance standard		Matters of discretion	Guidance on the assessment of resource consents
...			
4.	Minimum site size – (Rule 15.7.4.2)	a. Effects on neighbourhood residential character and amenity	<i>Relevant objectives and policies:</i> i. Objective 2.4.1 ii. Resultant sites are of a size: 1. that provides for compliance of all relevant land use and development performance standards; and 2. where in a structure plan mapped area, reflects the requirements of the structure plan mapped area performance standards (Policy 2.4.1.8). <i>General assessment guidance:</i> X. For subdivision concurrent with an application for multi-unit development, Council will generally only grant subdivision consent where the land use consent is also granted. <i>Potential circumstances that may support a consent application include:</i> iii. The adjustment of site boundaries is necessary to achieve: 1. a more balanced division of site sizes relative to an existing residential buildings size, location or access requirements; 2. better alignment with topographical or other site development constraints; or 3. the protection of heritage items, significant trees, indigenous vegetation, or waterways on a site.

			<i>Conditions of consent that may be imposed:</i> Y. For subdivision concurrent with an application for multi-unit development or an approved land use consent for multi-unit development but where the development has not been established, a condition requiring that the development is established in accordance with the approved land use consent prior to certification of the survey plan pursuant to section 223 of the RMA.
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