



SECOND GENERATION DISTRICT PLAN

Variation 2

Additional Housing Capacity

Part 1 – Provisions

(Except 3 Waters Provisions)

Reporting Officer's Reply

(Except on Social Housing - Change C1)

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Experience: I have approximately three years of planning experience, including preparing and processing resource consent applications and developing policy. I have been employed by the Dunedin City Council as a Policy Planner since May 2019.

Code of Conduct

I confirm that I have read, and agree to comply with, the Environment Court Code of Conduct for Expert Witnesses (Practice Note 2014).

Role in Variation 2 Preparation

I have been the primary planner for Variation 2 changes to Plan provisions, including all changes addressed in this Section 42A Report.

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1.0 Introduction

1. This report is prepared under the provisions of section 42A of the Resource Management Act 1991 (RMA) in response to evidence and presentations made by submitters at the first hearing on Variation 2, except regarding the proposal for social housing (Change C1). The social housing proposal is addressed in a separate report prepared earlier.
2. This report is prepared to assist the Panel in making decisions and includes comment on questions the Panel raised at the hearing. It addresses the main areas of discussion at the hearing by topic.

2.0 Public Transport

3. Mr Peter Dowden attended the hearing to present his own submission and that of the Bus Users Support Group Ōtepoti. It appears that the intended meaning of the submissions lodged by these parties may have been incorrectly interpreted (in part) as seeking changes to Plan rules, whereas it appears that the issues raised primarily relate to how rezoning areas are assessed for accessibility by public transport, and this is more relevant to the upcoming hearings on rezoning.
4. The submitters did not address the amendments recommended in the Section 42A Report under Change D2 for transport connectivity, which include changes to encourage better consideration of pedestrian connectivity to bus stops as part of subdivision design. However, I am of the view this would support some of the submitters' goals in terms of better bus accessibility as a part of urban growth.
5. Some other methods could be used to support the amendments to Change D2, outside of the Plan. For example, the publicly available 2GP data map (which does not form part of the Plan) could be amended to show bus stop locations and routes and classify them in terms of whether they meet the 2GP definition for "frequent public transport services" or not. This would be a useful resource for developers when considering how to design their subdivisions to meet the amended assessment rules and policies for transport connectivity.
6. I note that the upcoming development of the Future Development Strategy, in conjunction with the Otago Regional Council, will provide a good opportunity to plan strategically for how urban growth and public transport infrastructure integrate. That project is a more appropriate mechanism to achieve this than through Variation 2.
7. Overall, I retain my recommendations regarding public transport and the submitters' requests as per the Section 42A Report, which include changes through Change D2, but not other changes.

3.0 Heritage

3.1 Heritage and Subdivision in an NDMA

8. Firstly, I will address the submission of Mr Farry, which sought the addition of a new assessment matter for subdivision in a new development mapped area (NDMA) to enable consideration of effects on adjacent heritage items. As I noted at the hearing, there are only two instances where a proposed NDMA is adjacent to a heritage item. These are:
 - B425 Bishopgrove (ex Bible College, being Mr Farry's own property and adjacent to NDMA03). The protection required for this building as listed in Appendix 1.1 of the Plan is for the "Entire external building envelope, entrance hall and stairway". It is unlikely that subdivision on the adjacent property would have adverse effects on the parts of the building that are protected; and

- B608 Rockwell Hall (being adjacent to GF11 at Wakari where an NDMA is also proposed). The protection required for this building as listed in Appendix 1.1 of the Plan is for the “Entire external building envelope”. Again, it is unlikely that subdivision on the adjacent property would have adverse effects on the parts of the building that are protected.
- 9. I note that Dr Andrea Farminer, DCC Heritage Advisor, has confirmed that effects on the curtilage of a scheduled heritage building are not a consideration. Effects on the ‘ambience’ of a property (for which Mr Farry expressed concerns) relate more to amenity than the protected heritage values of a scheduled heritage building.
- 10. I also note that there is considerable planning background regarding Mr Farry’s property which is connected to the concerns he has expressed through his Variation 2 submission, including that:
 - A right-of-way passes over his property in favour of the adjacent greenfield residential zoned property;
 - Mr Farry did not have a submission on the residential rezoning of that property through the 2GP process, nor did he join the proceedings as a Section 274 party to an appeal when the opportunity was available; and
 - The neighbouring property has been rezoned to a residential zone through the 2GP process and is subject to an application for an 89-lot subdivision (SUB-2021-128) for which a decision has not yet been issued.
- 11. Overall, my recommendation regarding Mr Farry’s submission is unchanged, that is, I do not recommend granting the relief sought.

3.2 Heritage and Intensification in GR1 and T&S zones

- 12. Mr David Murray and representatives of Southern Heritage Trust presented at the hearing regarding concerns over the loss of heritage values as a consequence of providing for intensification. Both parties were generally supportive of the type of ‘blanket rule’ suggested in the Section 42A Report to require consent for the demolition of a building older than a specified age, to enable a heritage assessment to take place.
- 13. Mr Murray’s points included that heritage protections should be targeted in some way, particularly to protect the best examples of heritage buildings, rather than simply all old buildings. However, Mr Murray stopped short of saying how/where that targeting should occur (e.g. where the areas of greatest concern are located, or a possible appropriate age ‘cut-off’ for the rule).
- 14. Mr Murray’s points in terms of assessing potential additions to the heritage schedule and precincts are also noted, although I reiterate the constraints in terms of progressing this as part of the Variation 2 process.
- 15. In terms of Southern Heritage Trust’s concerns, I was left with the impression that these relate primarily to “suburbs above the town belt”, which are largely subject to proposals for rezoning to General Residential 2 zone (or are already subject to this zone) and, therefore, will not be affected by the proposed rule changes for the General Residential 1 and Township & Settlement zones. This rezoning will be addressed as part of a later hearing.
- 16. Southern Heritage Trust, while supporting the suggested ‘blanket rule’, also expressed concerns about effects that would not be managed by it. That is, the suggested rule would only control demolition, not other activities such as subdivision, additions and alterations, or the design of neighbouring buildings. I am of the view that these details are better managed through extending the heritage provisions via a later plan change process once more heritage evidence is available to support the scheduling of additional heritage buildings.
- 17. Overall, given the information available, the relevant objectives of the Plan, and the listing of historic heritage as a matter of national importance in Section 6 of the RMA, I am of the view that a blanket provision to manage the demolition of pre-1940 buildings in the General Residential 1 zone and Township & Settlement zone (except within the no DCC reticulated wastewater mapped area) should be adopted as part

of Variation 2. This approach is similar to that taken for significant indigenous biodiversity which is not scheduled.

18. Given the assessment undertaken for the Section 42A Report that a rule for pre-1940s buildings would generate an estimated 88 resource consents for demolition over the in the next 10 years, I am of the view that the costs of such a rule are outweighed by the benefits of avoiding the potential loss of significant historic heritage that is not protected by any other method.
19. The Panel may also wish to recommend development of a programme for review of the heritage schedule and precinct areas around suburban Dunedin over the medium-term to enable more specific provisions, based on detailed heritage assessments, to supersede the 'blanket rule' through a later plan change process.
20. Such an approach would provide 'interim protection' for heritage values in suburban areas so that changes providing for intensification can still proceed, while 'buying time' to enable more detailed work to be undertaken in this area.

4.0 Character and Amenity

21. Mr Barry Douglas spoke regarding his concerns arising from the proposed General Residential 2 rezoning in Belleknowes. However, rezoning was not the topic of the hearing. There appeared to be some misunderstanding as to how the proposed Variation 2 rule changes apply, particularly regarding the proposed reduction in minimum site size from 500m² to 400m² which only affects the General Residential 1 zone and Township & Settlement zone (where wastewater serviced), not the proposed areas of General Residential 2 zone (where instead the minimum site size would be reduced by way of rezoning, from 500m² to 300m²).
22. My recommendations regarding managing character and amenity effects arising from the proposed rule changes remain unchanged from the Section 42A Report. That is, I do not recommend amendments to further manage these effects. Effects arising from rezoning proposals will be addressed at a later hearing.

5.0 Telecommunications and Electricity Infrastructure

23. Four key topics were discussed by Spark NZ & Vodafone NZ and the supporting submission by Aurora Energy in evidence, legal submissions, and at the hearing. These are addressed in turn below.

5.1 Consultation with infrastructure providers regarding urban growth

24. The submissions from Spark NZ & Vodafone NZ broadly requested amendments to Plan provisions to better guide consultation with telecommunications operators as part of planning for urban growth. Two key points that I noted included that:
 - the effectiveness of consultation with telecommunications operators is likely to be linked to the timing of that consultation and the availability of supporting information at that time; and
 - consideration of infrastructure availability at the time of subdivision and development has tended to focus on the provision of physical infrastructure connections to each resultant site (such as fibre or electricity connections), rather than the provision of adequate wireless/mobile connectivity across a development area.
25. I will expand on these points further below and make recommendations to address them.

5.1.1 Consultation at time of rezoning

26. While Mr Chris Horne acknowledged in his verbal submissions that DCC had undertaken consultation with the telecommunications providers prior to notifying Variation 2, he indicated that this had not provided sufficient detail to enable the providers to give helpful feedback.
27. Having reviewed the details of the communications that were undertaken, I agree with this summary, but note that this is always likely to be the situation at the time of developing proposals for residential rezoning and urban growth. The key reason for this is that, prior to notification, DCC prefers not to provide detailed information about the rezoning areas being considered to external parties. This is because the information is commercially sensitive prior to public notification (i.e. it may be unfair for external parties to know about a proposed rezoning area before the affected landowners and there is a risk this information can be used to the disadvantage of the landowner).
28. Similarly, at the time the rezoning is notified and considered, there is often little detail available as to how the landowner may end up developing the land in terms of site layout and other factors relevant to infrastructure planning. Sometimes there may be sufficient detail available to enable structure plan rules to be included through the plan change process to set requirements regarding infrastructure provision, where encouraged via submissions from the relevant infrastructure providers.
29. However, it is more likely that sufficient detail to support consultation with telecommunications providers (i.e. details about the proposed development layout) will not be available until the time a development proposal is being considered.
30. This position is supported by the evidence from Mr McCarrison and Mr Clune (para. 4.3) where they indicate that the rezoning stage is too soon to undertake network planning and that this should be done during the development of new areas.
31. Overall, I accept Mr Horne's statement at para. 16 of his evidence, where he states that the need to consult with telecommunications operators prior to a plan change is "probably more of an education matter rather than requiring a specific amendment to the 2GP" and I retain my recommendation from the Section 42A Report to not make amendments regarding this matter.

5.1.2 Consultation at time of development

32. The joint evidence from Spark NZ and Vodafone NZ expressed concerns that it is unclear how consultation between them and developers would be undertaken at the time of developing new urban areas.
33. To date, the Plan has relied on the requirements of the service connections performance standard (Rule 15.7.5 and Rule 9.3.7) to prompt developers to design for infrastructure connections at the time of subdivision, and to undertake any necessary consultation with providers to ensure that this is planned for. However, this performance standard is focussed on provision of physical infrastructure to the boundary of sites and does not address connections to mobile infrastructure.
34. Overall, I agree that there is a gap in the Plan in ensuring that developers engage with telecommunications providers at the time of developing their subdivision plans to ensure that mobile infrastructure is adequately planned for. Without remedying this gap, there is a risk of adverse economic effects on telecommunications providers in terms of the additional costs of rectifying this situation after a development has taken place (as set out at para. 4.4 of the joint evidence), and a risk of adverse social and economic effects, and health and safety effects (in terms of connectivity to emergency services) on future residents of an area should mobile connectivity be compromised by a lack of early planning.
35. In terms of the National Environmental Standards for Telecommunication Facilities 2016 (NESTF), I note that this only provides for equipment cabinets and antennas located within the road reserve as a permitted activity (applying to formed legal road and any land next to it up to the legal boundary of the adjoining land). This does not address:

- When a road is not yet formed and vested as road reserve (being the time when it might be most efficient to plan new infrastructure, to avoid new roads needing to be dug up to install telecommunications infrastructure);
 - When a road will not be provided because private access is more appropriate; or
 - The location of new poles in residential zones not in road reserve (e.g. if the road reserve is not in a good operational location for an antenna).
36. I agree with the submitters that the status quo does not support achieving Objective 2.3.1 Land and facilities important for economic productivity and social well-being. I consider that changes to the NDMA provisions (which are within the scope of Spark NZ & Vodafone NZ's submission to amend) to address this may be appropriate. However, Council now seeks to defer decisions being made on NDMA provisions until the completion of the hearing on 3 waters provisions (which also contain NDMA provisions), so recommended drafting will be provided after that hearing.
37. I have not recommended changes to the transition zone release criteria to address this matter, as it is outside the scope of Variation 2 to consider (as outlined in my opening statement).

5.2 Objective 12.2.X on subdivision in NDMA's

38. Objective 12.2.X and the associated new development mapped area (NDMA) method were added to the Plan "to ensure that the subdivision of large areas of greenfield residential land is undertaken in a way that supports best practice urban design outcomes and achieves the strategic objectives of the Plan in an integrated yet flexible way" (purpose statement for Change D1 from the Section 32 Report).
39. Spark NZ & Vodafone NZ have requested that these provisions include a reference to achieving Objective 2.3.1 Land and facilities important for economic productivity and social well-being, to support the provision of infrastructure other than public infrastructure as part of urban growth and development.
40. My Section 42A Report indicated that this was not necessary because Objective 2.3.1 is already considered at the time of rezoning via Policy 2.6.2.1, and that structure plan mapped area rules could be used to manage issues such as setbacks from infrastructure where necessary (N.B. the performance standards for setbacks address setbacks from the National Grid for electricity, but not telecommunications infrastructure, except for earthworks). Furthermore, that the service connections performance standard requires connections to be provided at the time of subdivision.
41. However, the evidence provided by the submitters has reinforced the difficulty of undertaking network planning at the time of rezoning, and that planning for mobile infrastructure is particularly difficult given the current Plan provisions. On reflection, I can see that while the rezoning process might enable consideration of reverse sensitivity effects on existing infrastructure, it does not efficiently provide for the planning of future infrastructure needed to support the development. As already outlined above, this is likely to be more effectively achieved at the time a development proposal is being formulated. Similarly, the service connections performance standard does not consider connections to mobile networks, so this does not provide a prompt for such infrastructure to be considered at the time of subdivision.
42. Therefore, I consider that changes to Objective 12.2.X and associated provisions may be appropriate to address the submitter's concerns. However, Council now seeks to defer decisions being made on NDMA provisions until the completion of the hearing on 3 waters provisions (which also contain NDMA provisions), so recommended drafting will be provided after that hearing.

5.3 RTZ amendments – out of scope

43. As advised in my opening statement at the hearing, the changes sought by the submitters regarding the transition release rule criteria have already been struck out as outside the scope of Variation 2 to consider.
44. However, for information purposes, I note that the 'release' of Residential Transition Zone land simply provides for different zone rules to apply. This process will not provide any further information to

telecommunications providers as to the eventual pattern of development that is likely than would be available at the time of rezoning through a plan change.

5.4 Height

5.4.1 Scope to consider the changes sought

45. I agree with the *Memorandum of Scope Matter* provided by Spark NZ & Vodafone NZ after the hearing, that their submission seeking amendments to the assessment rule for the height performance standard should be considered within the scope of Variation 2. This is because I agree that the amendments sought fall within the purpose statement for the Variation 2 rule changes (as identified at para. 1.3 of the Memorandum).
46. However, any amendments to provide relief must only apply to areas where intensification is provided for through Variation 2. This is primarily in the General Residential 1 zone and Township & Settlement zone (except within the no DCC reticulated wastewater mapped area) and any new areas of General Residential 2 zone to be adopted. In all other areas the changes provided for through Variation 2 will make minimal difference to anticipated development capacity. Extending any changes to include these areas would need to be undertaken through a later plan change process.
47. The Panel will need to consider whether it is best to progress partial changes to the height performance standard through Variation 2 (and recommend additional changes through a later process), or whether it is best to defer all changes to a later process to ensure that the Plan provisions are consistently applied across all residential areas at any one time.
48. My own view is that if submissions raise valid issues and there is sufficient information to support making changes, they should be addressed now to ensure that the objectives of the Plan are effectively achieved to the extent they can be through Variation 2, despite this adding potential complexity and inconsistency into the Plan in the short-term.

5.4.2 Assessment of the merits of the request

49. I accept the evidence regarding the effects of height infringements on telecommunications infrastructure as set out in the joint evidence from Spark NZ & Vodafone NZ and agree that the current Plan provisions do not enable consideration of these effects as part of processing a resource consent application for a height contravention.
50. However, at this time I consider that there is insufficient information available to enable a recommendation to be made regarding changes to address these issues. In particular, I note:
 - It may be difficult for applicants and the processing planners to implement the provisions as sought by the submitters because it would be unclear when they would be relevant (e.g. where is the infrastructure of concern; when would consultation need to be undertaken with telecommunications providers; which providers are relevant in any given situation; how can effects be established and assessed; to what extent might this delay consenting processes?);
 - It would be beneficial to speak with other Councils about how these issues are managed in other territories to inform the approach; and
 - There are likely to be other options to address the issue of concern to the submitters and these should be identified and assessed before proceeding with any changes (e.g. it might be more appropriate to only apply these provisions in mapped areas around the infrastructure of concern to make it clear when they are relevant).
51. Overall, given the insufficient information to support an assessment at this time, I recommend that the Panel reject the relief sought. Changes to address these issues could then be incorporated into a later plan change process (e.g. the upcoming Variation 3) and could then also be applied more widely than just to areas substantively affected by Variation 2.

52. In terms of Aurora Energy Ltd's further submission in support, I also accept the evidence provided regarding the potential for effects on nearby transmission lines. However, as no changes to the assessment rules are recommended at this time in response to the submission from Spark NZ & Vodafone NZ, the relief sought cannot be granted at this time.
53. However, I consider that it would be acceptable to include an advice note regarding the requirements of the NZECP 34 in relation to the performance standard for height. Other changes could be considered through a future plan change process.

5.4.3 Recommended amendments

54. Amend Note 15.6.6A – General advice, to add a new clause as follows (same wording as existing Note 5.6.1A.1):

X. The New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001) contains restrictions on the location of structures and activities in relation to transmission lines. Compliance with this code is mandatory. Compliance with this plan does not ensure compliance with NZECP 34:2001.

6.0 New Development Mapped Area (NDMA)

55. Council now seeks to defer decisions being made on NDMA provisions until the completion of the hearing on 3 waters provisions (which also contain NDMA provisions), so recommended drafting (where necessary) is not provided at this time for the topics below.

6.1 Change D4 – Social and Recreational Spaces

56. Ms Emma Peters presented at the hearing on behalf of several submitters, essentially requesting the inclusion of a performance standard providing a formula for when and how much social and recreational space is required. However, Ms Peters also indicated that such detail may be able to be provided through amendment to the detail in the Code of Subdivision and Development.
57. Ms Peters also accepted the changes recommended in the Section 42A Report on behalf of the submitters she represents (para. 9 of her evidence).
58. Overall, I consider that changes to the Code of Subdivision and Development through a future review process could be a good option to include further details on the provision of social and recreational spaces. Furthermore, I consider that there is still an opportunity for the relevant submitters (who also have site specific rezoning requests) to put forward suggestions for structure plan rules which could apply to their rezoning sites to specifically address the provision of social and recreational spaces. This can be addressed at the later hearing on greenfield rezoning.
59. I retain my recommendation as per the Section 42A Report on this change.

6.2 Change D6 – Natural Environmental Values

60. Ms Peters' evidence agrees to the amendments recommended in the Section 42A Report on behalf of the submitters she represents, and seeks an amendment to 12.X.2.5.d.iv so that a proviso is included with respect to vegetation so that plants listed on the 2GP Pest Plan List or ORC Pest Management Plan are excluded from Council's consideration as examples of "aspects of the natural environment which make an important contribution to the sense of place or character of the landscape...". I recommend agreeing to this amendment.
61. In addition, Mr Richard Ewans (DCC Biodiversity advisor) has also suggested another amendment to better clarify the provisions. This is to make an addition to the general assessment guidance for Rule 12.X.2.5.d to refer to areas that meet one or more of the criteria set out in Policy 2.2.3.2 for identification of areas of significant indigenous vegetation and/or significant habitats of indigenous fauna. This is to acknowledge that

any areas that meet these criteria as 'significant' would also fall within the assessment rule as 'important'. I recommend making this additional amendment to support the assessment process in further response to the submissions, and this is consistent with evidence earlier provided by Mr Ewans.

62. Recommended drafting will be provided in time for deliberations after the hearing on 3 waters provisions.

6.3 Change D7 – Amenity Planting and Public Amenities

63. Ms Peters' evidence agrees with the changes recommended in the Section 42A Report and supports a change to the Code of Subdivision and Development to support this. Therefore, my recommendation remains unchanged from that stated in the Section 42A Report.

6.4 Change D8 – Efficient use of land

64. Submitters represented by Ms Peters sought deletion of Rule 12.X.2.5.e.iv.3 which regards Council considering "the potential cumulative effects of inefficient development on loss of rural land" in terms of efficient subdivision design. The Panel has also requested comments on whether the reference to assessing cumulative effects is appropriate for the resource consent stage, given the difficulty in undertaking such an assessment.
65. Ms Peters' evidence agrees to the retention of Rule 12.X.2.5.e.iv.3 if the rule includes consideration of wider reasons why land might be subdivided to a lesser density than provided for by the zone (other than to just achieve 2GP objectives and policies).
66. I have reflected on all of the above, and in light of the further information obtained from Mr Stocker on the yield achieved in recent subdivision applications (provided in the answers to the Panel's pre-hearing questions), and the discussion on the difficulty of assessing cumulative effects at the time of consenting, I consider that some amendments are required to:
- Remove the reference to cumulative effects assessment;
 - Recognise that slope can be a relevant factor in reducing yield; and
 - Recognise that Council would generally anticipate a yield of at least 70% of maximum development capacity to account for the provision of roads, reserves and stormwater management areas.
67. I consider that there is scope to make these amendments within the submissions for which Ms Peters is agent, as they address the broad reasons why deletion of the specific clause was sought. Scope is also generally provided by submissions which seek the deletion of Change D8 altogether, as these recommended amendments fall between the status quo and the provisions as notified.
68. I do not recommend amendments that provide for other broad exceptions, such as reference to market conditions, as these could potentially be used to justify almost any lower-yield proposal and would substantially undermine the intent of the provisions.
69. However, Council now seeks to defer decisions being made on NDMA provisions until the completion of the hearing on 3 waters provisions (which also contain NDMA provisions), so recommended drafting will be provided after that hearing.

7.0 Change A2 – Duplexes

7.1 Drains in common

70. Mr Kurt Bowen and Mr Mark Geddes presented at the hearing on behalf of Survey & Spatial NZ Coastal Otago Branch regarding their submission seeking amendments to allow duplexes to share foul and stormwater drains (drains-in-common).

71. Mr Bowen tabled a range of documents from other Councils demonstrating provision for shared drains, including:
- Excerpts from Christchurch City Council's Infrastructure Design Standard (which is the equivalent of DCC's Code of Subdivision and Development and does not form part of the Plan);
 - An excerpt from the Christchurch City Council's website explaining wastewater pipes ownership and responsibility to the general public (not part of the Plan); and
 - An excerpt from Selwyn District Council's Engineering Code of Practice (which, again, is the equivalent of DCC's Code of Subdivision and Development and does not form part of the Plan).
72. Mr Bowen acknowledged that changes to the DCC's Code of Subdivision and Development may be a more appropriate mechanism to grant the relief sought, rather than changes to the 2GP.
73. Issues raised in support of the relief sought included that other Councils provide for shared drains, DCC enables shared drains for unit title subdivision, maintenance and access issues can be resolved by publishing guidelines, and that shared drains would reduce the costs of development.
74. However, I continue to favour the evidence provided for the Section 42A Report by Mr Jared Oliver and Ms Jacinda Baker regarding the need to avoid ongoing maintenance issues arising from the use of shared drains where possible, and the health and safety implications when spills occur.
75. Furthermore, I consider that the 2GP is not the appropriate place to address this matter and I continue to recommend that no amendments be made to grant the relief sought.

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

8.1 Providing for concurrent land use and subdivision applications

76. Representatives for TGC Holdings Limited and Ōtākou Health Limited presented at the hearing and circulated evidence on the proposed drafting of the exemption to the minimum site size performance standard for existing development (Change B6). The submitters request amendments that would make it clearer that the exception can apply when a land use consent for multi-unit development and subdivision consent are lodged concurrently.
77. The intent of what the submitters seek was part of the reason for the changes proposed, as was outlined in the Section 32 Report (see page 44). Therefore, I agree with the submitters that providing for concurrent assessment of a resource consent for multi-unit development and subdivision consent for fee simple subdivision is desirable, provided the land use and development performance standards are complied with.
78. As I spoke to at the hearing, I am of the view that the recommended drafting for these provisions (at Rule 15.7.4.1.j.X) already provides the relief sought by the submitters. The way this would work is as follows:
- Application is made for a multi-unit development as a restricted discretionary activity (where the associated residential land use activity meets the density performance standard and other performance standards and is a permitted activity), along with an application for fee simple subdivision;
 - As part of the subdivision proposal, the applicant sets out that they will establish the associated multi-unit development prior to the certification of the survey plan pursuant to section 223 of the RMA, and they apply the exception to minimum site size on that basis, making the application restricted discretionary (N.B the buildings do not need to be established at the time of application);
 - If the application does not specifically state this approach, the consent planner can confirm with the applicant whether they would accept a condition of consent to that effect (i.e. the applicant

adopts it as part of their proposal) to enable the subdivision consent to be assessed as a restricted discretionary activity;

- The consent planner considers the applications. If land use consent for the multi-unit development is to be granted, the subdivision consent can be considered as a restricted discretionary activity and a condition of consent applied requiring establishment of the development prior to certification of the survey plan;
- If the multi-unit development consent were to be declined because amendments are not made by the applicant to enable it to be granted, the subdivision application would possibly be withdrawn or assessed as a non-complying activity and likely also declined.

79. I have checked this approach with Ms Lianne Darby, DCC Planner, Resource Consents, and she agrees this is how the provisions, as recommended in my Section 42A Report, would be implemented.

80. While I acknowledge that this approach has not been clear to the submitters without explanation, I have not arrived at any other alternatives that would achieve the same outcome in a clearer way without potentially creating other issues. Therefore, I retain my recommendation as set out in the Section 42A Report.

9.0 Change D2 – Roads at the time of subdivision

81. Mr Kurt Bowen and Mr Mark Geddes presented at the hearing on behalf of Survey & Spatial NZ Coastal Otago Branch regarding their submission seeking amendments for when a road may be required at the time of subdivision.

82. Mr Bowen expressed concerns that DCC Transport has required roads where an access will serve more than 12 residential units as a matter of policy, rather than considering whether this is feasible in any given circumstance. He asserted that this had impacts on development yield and commercial viability.

83. Mr Bowen acknowledged the additional amendments recommended in the Section 42A Report to provide better guidance around when Council might not require a road (through Rule 6.11.2.7). However, Mr Bowen also tabled some suggested amendments to the wording to more tightly manage how the provisions would be applied in practice.

84. I recommend not agreeing to most of these suggestions, except for some additional wording regarding considering legal constraints the applicant does not have the authority to cancel. The reasons for this are:

- At clause X: Consideration of site topography and physical constraints is already provided for in the recommended wording. Adding 'in a practical manner' introduces an inappropriate degree of subjectivity;
- At clause Z: removing the reference to unit title subdivision only and providing for alternative management entities to a body corporate would fundamentally undermine the provisions and one of the key reasons for their inclusion – being to require a road to avoid the ongoing management issues that arise from accessways shared by many users, even when private agreements are in place; and
- The general guidance suggested at the end of the provision is inappropriate as it effectively predetermines the outcome of Council's assessment and serves to apply an assessment matter more as a rule.

85. I have sought feedback from Mr Logan Copland, DCC Planner, Transportation, on how subdivision consents have been assessed regarding the provision of roads to gauge the extent to which concessions are made in light of site-specific factors. Mr Copland has provided the following comments:

- Transportation's current approach is typically that when an access is proposed to serve more than 12 sites and provision of a legal road appears feasible, this option is investigated in the first instance;

- However, if an applicant is able to sufficiently demonstrate that construction of a road is not feasible due to site specific constraints (boundary configuration, for example), and the scale of development is such that the effects between the proposed number of sites and the desired limit of 12 are not dissimilar, then Transportation have allowed private ways serving more than 12 sites;
 - Examples include a 14-lot subdivision on Kaikorai Valley Road, a 15-lot subdivision in Tomahawk, and a subdivision at 115 North Taieri Road involving access for 16 sites where Transportation accepted that a road may not be able to be provided due to existing easements over the land that would require third party agreements to cancel. Transportation provided the option of not requiring a road if agreements to cancel the easements could not be obtained;
 - The matter of scale needs to be considered through the consent process (i.e. 14 or 15 sites accessed via a private access can be acceptable dependent on circumstances, but 35 sites is quite different);
 - This issue has again highlighted the need for a review of the Code of Subdivision and Development, through which road design standards could be reviewed in light of the City's context and also the latest version of NZS 4404.
86. Discussion was also had at the hearing as to whether wording the policy in terms of 12 or more residential units (rather than sites; an amendment recommended in the Section 42A Report) made the provisions too onerous. However, I also note the wording states: "is likely to service more than 12 residential units..." and this provides discretion for the assessment to be undertaken based on the information that is available at the time the application is made.
87. Overall, I retain my recommendations as set out in the Section 42A report, except for the additional amendments set out below.

9.1 Recommended amendments

88. Add to the General Assessment Guidance in Assessment Rule 6.11.2.7 as follows (additional amendments shaded grey):

[to be inserted after 6.11.2.7.a.Y]

AC. In determining whether the location or design of a subdivision makes it inappropriate to require a road, Council will consider all relevant matters, including, but not limited to, whether:

X. access routes to and through the subdivision area will enable minimum road design requirements to be met, including factors such as slope and site dimensions;

Y. access can only be achieved by right-of-way over other property;

Z. the proposal is related to a multi-unit development or is for a unit title subdivision and ongoing management of accessways over common property is provided for through a body corporate; or

AA. legal constraints which the applicant does not have the authority to cancel exist within the site and prevent the vesting of road.

10.0 Other Matters

10.1 Changes to manage adverse effects

89. As set out above in Section 5.4.1 on the scope to consider the changes sought to the performance standard for height, and as set out in the answers to the Panel's pre-hearing questions, amendments progressed through Variation 2 to address the adverse effects that might arise from Variation 2 changes must be limited to only applying in the areas affected by those changes.
90. I have undertaken a final review of the amendments recommended in the Section 42A Report and wish to highlight one set of recommendations which I consider go beyond this scope. These are the changes recommended to address solid waste issues.

10.1.1 Solid Waste

91. On reflection, I am of the view that the amendments recommended in the Section 42A Report for solid waste go beyond what can be done within the scope of Variation 2, as they propose to introduce new provisions for all multi-unit development and subdivision in the residential zones.
92. The recommended amendments should be altered to only apply within the areas where development capacity will be meaningfully increased through Variation 2 proposals. This is primarily in the General Residential 1 zone and Township & Settlement zone (except within the no DCC reticulated wastewater mapped area) and any new areas of General Residential 2 zone to be adopted. In all other areas the changes provided for through Variation 2 will make minimal difference to anticipated development capacity. Extending any changes to include these areas would need to be undertaken through a later plan change process.
93. The Panel will need to consider whether it is best to progress partial changes to deal with solid waste issues through Variation 2 (and recommend additional changes through a later process), or whether it is best to defer all changes to a later process to ensure that the Plan provisions are consistently applied across all residential areas at any one time.
94. My own view is that if submissions raise valid issues, they should be addressed now to ensure that the objectives of the Plan are effectively achieved to the extent they can be through Variation 2, despite this adding potential complexity and inconsistency into the Plan in the short-term.

10.2 Other recommendations made in the Section 42A Report

95. I retain the recommendations I made in the Section 42A Report, except where indicated otherwise in this reply. I note that several of the recommendations, if adopted, will require additional drafting development, and / or checking for consequential changes.