



THE PROPOSED
**SECOND
GENERATION
DISTRICT PLAN**

Dunedin City Council, 50 The Octagon, Dunedin 9016
PO Box 5045, Moray Place, Dunedin 9058

Website: www.dunedin.govt.nz/2gp

PROPOSED VARIATION 2 (ADDITIONAL HOUSING CAPACITY) TO THE 2GP

MINUTE 1

Appointment of the Hearing Panel, and Initial Submission Processes

From: The Chairperson, Variation 2 (Additional Housing Capacity) Hearing Panel

To: Submitters

Date: 1 April 2021

Introduction

1. This Minute is to advise you, as a party to the process, that an Independent Hearings Panel has been appointed by the Dunedin City Council to hear and make decisions on the submissions and further submissions to Variation 2 (Additional Housing Capacity) to the Proposed Second Generation Dunedin City Plan (2GP).
2. I also wish to advise you of some preliminary matters regarding:
 - (a) late submissions; and
 - (b) scope of submissions.

Hearings Panel

3. My name is Gary Rae, and I will Chair the Hearings Panel. I am an experienced RMA practitioner, and was previously Deputy Chair of the Hearings Panel for the 2GP process. I have subsequently acted as Commissioner for several applications for resource consent and designations in Dunedin City.
4. Joining me on the Panel will be DCC Councillors Jim O'Malley and Steve Walker. We are all accredited hearing commissioners.

Late Submissions

5. The first order of business for the Panel has been to consider whether waivers of time limits for those submissions lodged after the closing date for submissions should be granted. There were only four late submissions.
6. Council officers have reported to the Panel and recommended that the four late submissions should be accepted into the process, under the provisions of Section 37 and 37A of the Resource Management Act (RMA). The Panel has accepted the

staff recommendations and accordingly those submissions have been granted waivers to be accepted as valid submission into the process. Those submitters will be advised of this.

7. The Late Submission Report can be viewed on the 2GP Variation 2 (Additional Housing Capacity) webpage here <https://www.dunedin.govt.nz/council/district-plan/2nd-generation-district-plan/plan-change-dis-2021-1-variation-2>

Out of Scope Submissions

8. The second order of business will now be to consider 'out of scope' submissions.
9. Staff have advised the Panel that a number of submissions (in full or part) have been received which have submission points that have been assessed as not being 'on' Variation 2. Section 41D of the RMA provides for the Panel to strike out submissions (or parts thereof) that disclose no reasonable or relevant case, such as for any submissions that are not on the matters covered by the variation.
10. We have decided that determinations on striking out submissions which are more clearly not 'on' the variation will be made prior to the publication of the Summary of Submissions, noting that matters of scope may still arise later in the process and may need to be dealt with through decisions as well.
11. By way of background, I understand that the DCC chose to limit the scope of Variation 2 for the following reasons:
 - (a) To not pre-empt or interfere with the broader strategic growth planning work that needs to be done as part of the Future Development Strategy (FDS), which is required by the National Policy Statement on Urban Development (NPS-UD) and must be prepared jointly with the ORC. We understand that monitoring and background analysis to inform this project has begun but the formal governance arrangements with the Otago Regional Council are still being worked through.
 - (b) To avoid overlap between Variation 2 and remaining appeals on the 2GP decisions, as this would entangle the two processes (Clause 16B Schedule 1) and cause significant delays to both the progress of Variation 2 and appeals.
 - (c) To not significantly delay the time to make the 2GP fully or partly operative by adding a large volume of changes that would need to progress through submissions, hearings and appeals.
12. We have been advised that the limited scope of Variation 2, as outlined above, has been clearly outlined in the Section 32 Report and all supporting documents, public notices, and other communications for Variation 2. We also draw your attention to the following aspects pertinent to our consideration.
13. Within the Section 32 Report, the scope of Variation 2 is managed by inclusion of a 'purpose of proposal and scope of change' statement for each proposed change. Submissions may be made on matters encompassed by these scope statements. A copy of all statements relevant to the scope of Variation 2 is contained in the

Summary of Changes document. Other key statements from the Section 32 Report are attached in Appendix A.

14. The scope of Variation 2 is limited both in terms of Plan provisions and drafting, and in terms of the sites considered for rezoning. For rezoning proposals, the Section 32 Report states at paragraph 657 onwards:

"In the context of needing to identify additional residential capacity, the purpose of the proposal is to assess the appropriateness of rezoning a number of identified sites.

The sites that were assessed as part of this proposal include the sites that are proposed for rezoning outlined in Section 20.4, and those that were assessed but are not being proposed for rezoning in Variation 2, which are listed in Appendix 4...

Variation 2 does not include a full review of zoning in the city, but instead a limited review of the zoning of some sites. The scope of the proposals to rezone land includes the need for specific plan provisions (for example overlays or site specific rules) to manage adverse effects of development of the sites being rezoned.

Review of the zoning of sites outside those considered (and identified in Section 20.4 / Appendix 4) is not within the scope of this proposal."

15. As such, we consider it has been made clear to all potential submitters that any requests for rezoning of areas beyond those already forming part of Variation 2 are outside the scope of consideration.
16. Finally, on the scope aspect, I wish to point out that it is not for the Panel to assess the reasons for DCC having limited the scope of Variation 2 as it has done. The decision on what to include in a plan change or variation is up to the DCC. What the Panel needs to concern itself with is whether there are submissions that are outside the scope of the variation. Our decision will need to consider:
 - (a) Whether the submission addresses the changes to the pre-existing status quo advanced by the plan variation (is the management regime being varied in the plan); and
 - (b) Whether there is a real risk that people affected by the plan variation (if modified in response to the submission), would be denied an effective opportunity to participate in the plan variation process.

Process for Considering Scope of Submissions

17. The Panel advises that the following process will be followed for making decisions on whether submissions (or parts thereof) are struck out in accordance with section 41D of the RMA.
 - (a) Staff will prepare a report to the Panel identifying any submission points that may be outside the scope of Variation 2 (e.g. not being 'on' the plan variation).
 - (b) Submitters are to be advised by email (or letter if no email has been provided) that staff have identified in that report that all or some of their submission points have been assessed as potentially being out of scope and will be told where a copy of the report can be viewed and downloaded.

- (c) Affected submitters will then have 10 working days from the email date (or letter if no email has been provided) to provide a response to the assessment, outlining the reasons why you agree or disagree with the staff's recommendation. If you have already addressed scope arguments in your original submission the Panel will be advised of this in the Staff Report.

N.B. If you have not provided an email address in your original submission you may want to update your contact details with the DCC and provide one. In order to ensure an efficient process, no allowance for mail delays will be made in communications to or from the Panel. Please contact DCC by phone on 477-4000 or by email to districtplansubmissions@dcc.govt.nz to update any contact information.

- (d) The Panel intends to meet in early **May 2021** and will make 'strike out' decisions on the staff recommendations, whilst also considering any information received by submitters, 'on the papers'. All submitters who have submission points being considered will be notified when our decision has been published and will be able to view and download our decision report.

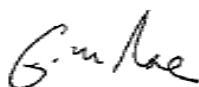
N.B. The Variation 2 Hearing Panel may also make strike-out submissions or parts of submission at or after the hearing/s on Variation 2.

- (e) Those submitters who have had their submission struck out, in whole or in part, will have a right of objection under section 357 of the RMA. Pursuant to section 357C of the RMA, any objection must be made by notice in writing and received not later than 15 working days after the strike-out decision was notified to submitters.
- (f) Any objections made under s357 will be heard by a separate Panel comprised of members of the DCC Hearings Panel whom are not on the Variation 2 Panel.
- (g) Further information on the objections process will be included in any decisions from the Panel, however, to ensure an efficient process and not delay the publication of the Summary of Submissions and the start of the Further Submissions process, it is proposed to proceed to the objections hearing without delay. Please note that pursuant to section 358(1) of the RMA any decisions on objections to strike-out decisions may be appealed to the Environment Court.

N.B. If the result of any objections or appeal is to overturn our strike-out decisions, then additional 'Summary of Submissions' will be notified, and further submissions will be able to be lodged on any of those submissions, which will then be added back into the Variation 2 process.

Conclusion

18. If you have any questions regarding this Minute please contact Jenny Lapham or Wendy Collard on 477-4000 or by email 2gp.hearings@dcc.govt.nz.



Gary Rae, **Chairperson**