



SECOND GENERATION DISTRICT PLAN

Variation 2 Additional Housing Capacity Part 3 – Sites Proposed for Rezoning

Reporting Officer's Reply on Minute 15, 16, and 17 from the Panel

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06 October 2022

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Experience: I have been employed by the Dunedin City Council as a Policy Planner since October 2021, and have primarily worked on the Variation 2 greenfield rezoning hearing topic along with appeals to the 2GP. Prior to this, I worked as a Permissions Advisor for 18 months at the Department of Conservation.

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).

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Introduction

1. In this document, I provide the requested response to the questions raised in Minute 15 and Minute 16, issued by the Hearings Panel on 19 September 2022.
2. I also provide initial comment regarding Minute 17, issued by the Hearings Panel on 30 September 2022.

Minute 15 – RS153/204 Chain Hills¹

3. The Panel has asked for a response on whether there is any part of the lower slopes (i.e. under 125m in Area A, M, and N, as well as under 90m in Area B) that can be supported for residential development from a 3 Waters perspective. The Panel asks would a much lower intensity development, i.e. just for parts of the lower slopes, be possible to reduce the need for pumping and with reduced effects downstream, and if so with what rules or restrictions?
4. For reference, I highlight Figure 1 below which shows the submitters proposed zoning for the site and the different areas².

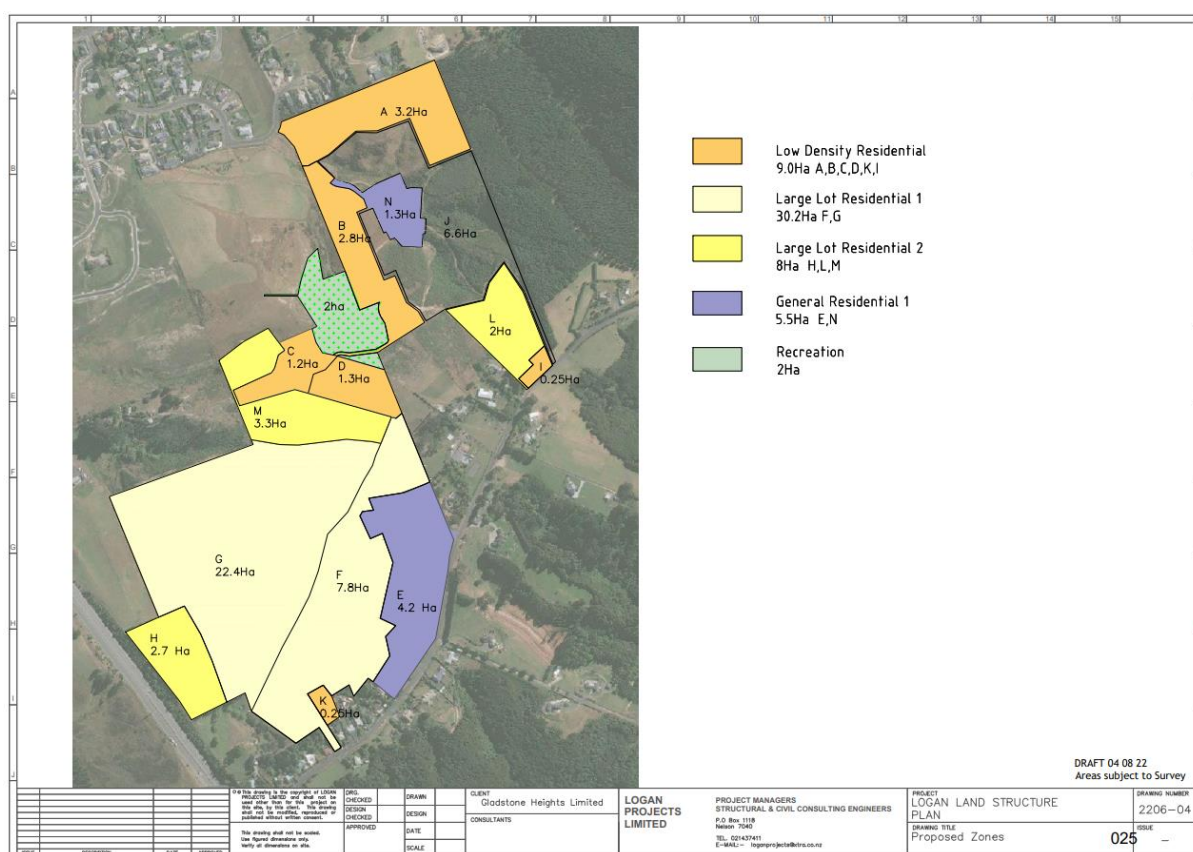


Figure 1 - Proposed Zoning Structure Plan for RS153/RS204 (Chain Hills)

¹ Minute 15, 19 September 2022. [Minute-15-RS153-RS204-Chain-Hills-.pdf \(dunedin.govt.nz\)](#)

² Page 25, Brief of Evidence of Emma Rayner Peters on behalf of Gladstone Family Trust, 5th August 2022. [S219-Gladstone-Family-Trust-Evidence-from-Planner-.pdf \(dunedin.govt.nz\)](#)

5. In Appendix 2 of my reply, my recommendation was to not rezone the site, primarily based on the 3 Waters issues identified, which related to potable water supply, wastewater servicing, and stormwater management. I also noted Mr McKinlay's landscape recommendation that rezoning, if it occurs, should be limited to the lower slopes (below approx. the 90m contour).
6. In response to Minute 15, I asked DCC 3 Waters to provide a further response specifically relating to the area of lower slopes. Mr Bruce Saunders and Mr Jared Oliver, both from DCC 3 Waters, have reviewed the Panel's Minute and have confirmed that their original position stands; rezoning this site (including just the areas of lower slope) is not supported from a 3 Waters perspective.
7. The reason for this position is that: *"Mosgiel is a concerning area, especially relating to new developments due to water supply, wastewater, and stormwater issues in the area. The primary reason that our position has not changed is due to the water supply capacity concerns. While the suggestion to rezone only the lower elevation areas could address concerns around water supply pressures it would still place additional demand on the already constrained Mosgiel water supply. 2GP rezones, resolution of 2GP appeals and Variation 2 will already release a lot of additional housing capacity (for example, Bush Road development (Next to Wal's Plant World), approx. 630 new properties are to be constructed). These developments will add strain to an existing constrained system. Therefore [a]dding further [requested] sites increases the likelihood and frequency of water restrictions and potentially failure within the network and water pump station supplying water to Mosgiel."*
8. I also refer the Panel to the 3 Waters response to submitter evidence on greenfield rezoning sites³, and the 3 Waters response to submitter evidence presented in the hearing on greenfield rezoning sites⁴. Both of these memoranda contain further detailed information that elaborates on the summary outlined in the above paragraph.
9. Overall, DCC 3 Waters does not support any part of the lower slopes for residential rezoning. Based on this evidence, my recommendation continues to be to not rezone any part of RS153/RS204.

Minute 16 – RS171 Brick Hill Road/Noyna Road⁵

10. The Panel has asked for a response on whether the rezoning of the top portion of land (i.e. part of the site at Brick Hill Road contiguous with the adjacent land that has residential zoning) could be supported. If so, the Panel has asked if a recommendation as to whether an RTZ overlay and any specific acoustic mitigation rules/measures should be imposed on development of that part of the site.
11. In Appendix 2 of my reply, I outlined two key issues in relation to residential rezoning of RS171. These were issues relating to 3 Waters constraints, and issues relating to reverse sensitivity

³ Variation 2: 3 Waters response to submitter evidence on greenfield rezoning sites, 26 August 2022. [Memorandum-from-3-Waters-Strategic-Planning-Engineer-and-Engineering-Services-Team-Leader.pdf \(dunedin.govt.nz\)](#)

⁴ Variation 2: 3 Waters response to submitter evidence presented in the hearing on greenfield rezoning sites, 6th September 2022. [Additional-Memorandum-from-3-Waters-Strategic-Planning-Engineer-and-Engineering-Services-Team-Leader.pdf \(dunedin.govt.nz\)](#)

⁵ Minute 16, 19 September 2022. [Minute-16-RS171-Brick-Hill-Road-Noyna-Road.pdf \(dunedin.govt.nz\)](#)

from the adjacent Port Otago warehouse facility. At the time these comments were made with the entirety of RS171 in mind.

12. Considering only the top half of RS171 (i.e. 3 Brick Hill Road), I provide the following comments.
13. Regarding 3 Waters, DCC 3 Waters has previously advised that significant upstream upgrades relating to potable water supply are required and there is a medium term timeframe (5-8) years to resolve this. More critically, there are existing wastewater overflows occurring at Sawyers Bay in wet weather, and significant downstream wastewater upgrades may be required. There is a long term timeframe (likely 10-20 years) to resolve these issues; however, more work is needed to understand the issues and how best to address them.
14. In response to Minute 16, I have confirmed this position with DCC 3 Waters. Mr Saunders and Mr Oliver from DCC 3 Waters have responded that their position is maintained; that additional residential zoning in Sawyers Bay is not supported at this time due to the long-term significant wastewater upgrades required, and the medium-term water supply upgrades. Based purely on the 3 Waters advice, I do not support rezoning any part of RS171. Given the uncertainty of the work required, and therefore the timeframe within which it will be addressed, in my opinion an RTZ is not appropriate in this case. Upgrades may not be undertaken for up to 20 years, and there is little benefit to applying a RTZ for such a long duration. The 2GP will be reviewed within this period and zoning can be reassessed through that process.
15. Turning secondly to the issue of reverse sensitivity, I made the comment in Appendix 2 of my reply that it is *“possible that 3 Brick Hill Rd is potentially more suitable for residential zoning compared to 18 Noyna Rd, in respect of reverse sensitivity”*. I made this statement because 3 Brick Hill Road is located further from the Port Otago facility compared to 18 Noyna Rd, and it follows that the potential for reverse sensitivity is therefore lessened. What it does not mean however is that the potential for reverse sensitivity is eliminated.
16. The submitter’s planner, My Darryl Sycamore, provided supplementary evidence⁶ proposing that the entire site is subject to a noise standard overlay consistent with Rule 9.3.6.4 (permitting a night-time noise level of 60 DB LAeq (15 min) and 85 dB LAFmax)). Additionally, Mr Sycamore also suggested a revised layout incorporating a 20m buffer from the Port Otago boundary, a no-complaints covenant over all sites, and a requirement that all rooms with noise sensitive activities must have acoustic insulation to comply with Rule 9.3.1.1.
17. Rule 9.3.6.4 applies where there are no noise sensitive activities within 20 metres of a boundary. Mr Len Andersen, Legal Counsel for Port Otago, responded to this revised proposal⁷, and expressed concern that the proposed noise limit would only apply on each boundary if there was not only 20m between the residential use and the industrial site, but also no houses within 20m of the other three boundaries. Mr Andersen commented that this issue would be overcome if the noise limits in Rule 9.3.6.5 apply instead (this still permits a day and night-time noise level of 60 DB LAeq (15 min) and 85 dB LAFmax)).
18. A bespoke rule for 3 Brick Hill Road implementing the noise limits in Rule 9.3.6.5 could be implemented via a structure plan for the site. Evidence obtained in relation to an appeal on the 2GP indicates that the combination of rules 9.3.1.1 (acoustic insulation) and 9.3.1.5

⁶ Supplementary Statement of Darryl Sycamore, 25 August 2022. [RS171_K-and-L-Accommodation-Ltd_S202-Supplementary-evidence-from-Planner.pdf \(dunedin.govt.nz\)](#)

⁷ Letter from Leonard Andrew Andersen, QC, 2 September 2022. [Untitled \(dunedin.govt.nz\)](#)

(supplementary ventilation) is sufficient to reduce noise received outdoors at levels of LAeq 60 to 65 dB to levels of LAeq 30 to 35 dB indoors, which is a level of indoor sound consistent with accepted standards adequate to protect sleep, and ensure residents maintain a reasonable standard of indoor thermal comfort with windows closed. I therefore consider that a combination of the proposed noise limit and acoustic insulation requirements will address any noise issues within dwellings.

19. Acoustic insulation will not, however, address noise experienced outside, for example by children playing in gardens. I note that there are existing residentially zoned properties 31 and 44m from the Port Otago site. I also note that I have checked the DCC records and found no recent noise complaints for the site. There is no evidence at what distance noise levels outside would be considered acceptable. The Panel may wish to seek this from the submitter. Alternatively, it might reasonably be considered that providing for residential sites a similar distance away may be acceptable.
20. Finally, as I discuss in my section 42A report, it is my view that there is not a pressing demand for additional development capacity that could be used to justify zoning greenfield land that is not well aligned with the objectives and policies of the 2GP.
21. Overall, taking into account the discussion above, I am not supportive of rezoning the top part of RS171 (i.e. 3 Brick Hill Road) based on 3 Waters constraints and ongoing concerns regarding reverse sensitivity.

Conclusion

22. From a 3 Waters perspective, there is no part of RS153/RS204 (Chain Hills) that can be supported for residential development.
23. Rezoning 3 Brick Hill Road (part of RS171) is not supported due to issues with 3 Waters, and issues relating to reverse sensitivity.

Comment on Minute 17⁸

24. I also note that the Hearing Panel has released Minute 17 regarding the new National Policy Statement on Highly Productive Land (NPS-HPL) on 30 September 2022. In this Minute, the Panel has initiated a two stage process, with the first stage being a legal submission from the DCC on which changes (sites) it assesses as being affected by the NPS-HPL.
25. Mr Michael Garbett, Counsel for DCC, has provided a legal submission on this matter.
26. Based on Mr Garbett's legal submission, I consider that the following sites would be affected by the NPS-HPL. That is, land that meets the criteria identified in clause 3.5(7)(a) of the NPS-HPL, but not the exceptions in clause 3.5(7)(b).

Address	Site ID	Site Area (m ²)	HPL as per clause 3.5(7) (m ²)	Proportion of site covered by HPL
170 Riccarton Road West	RS212	83,477	83,477	100%
119 Riccarton Road West	RS109	17,924	17,924	100%
Freeman Cl, Lambert St, Abbotsford	RS14	545,850	537,427	98%
85 Formby Street, Outram	RS175	59,965	58,996	98%
774 Allanton-Waihola Road	RS195	551,874	539,213	98%
91 and 103 Formby Street, Outram	RS154	43,864	40,977	93%
489 East Taieri-Allanton Road, Allanton	RS200	86,102	70,722	82%
RS153: 77, 121 Chain Hills Road, part 100 Irwin Logan Drive, 3-20 Jocelyn Way, 38 and 40-43 Irwin Logan Drive, 25-27 Pinfold Place	RS153	653,000	127,553	20%
155 Scroggs Hill Road	RS160	640,968	1,586	0.2%

27. Once the Panel has determined what sites it considers are affected by the NPS-HPL, I understand a further minute will be released outlining what further evidence is requested.

⁸ Minute 17, 30 September 2022. [Minute-17-The-new-NPS-HPL.pdf \(dunedin.govt.nz\)](#)