



SECOND GENERATION DISTRICT PLAN

Variation 2

Additional Housing Capacity

Part 3 – Sites Proposed for Rezoning

Reporting Officer's Reply

Emma Christmas

06 September 2022

Author

Name: Emma Christmas

Qualifications: BSc (Hons) Biology from the University of Southampton; MSc in Zoology from the University of Otago

Experience: I am employed as Team Leader Policy Planning at Dunedin City Council. I have approximately 25 years planning experience. I been employed by the DCC for 9 years, as a Policy Planner and Senior Policy Planner. I am a certified independent hearings commissioner and a full member of the New Zealand Planning Institute.

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 had a lead role in preparing Variation 2 and oversaw the preparation of the s42A report on the greenfield rezoning topic of Variation 2 (Hearing 4).

Contents

Introduction.....	4
Purpose of Variation 2 and relationship to the NPS-UD	4
<i>Responsive planning</i>	<i>5</i>
Assessment against Policy 2.6.2.1	5
Discussion on ‘compact city and resilient townships’ objective	7
The level of assessment of the ‘rejected sites’ and ‘knock out’ criteria	9
Use of Large Lot Residential zoning.....	10
SNL provisions and residential zoning	11
Rural zoning and vegetation clearance	11
Productivity of Rural Land	12
Urban Design Controls	13
Scope of amended submissions	14
On-site wastewater disposal.....	14
Appendix 1 – Relevant planning provisions	16
<i>National Policy Statement for Urban Development.....</i>	<i>16</i>
Policy 1	16

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 fourth hearing (greenfield rezoning) on Variation 2.
2. This report is prepared to assist the Panel in making decisions and includes response to questions raised by the Panel at the hearing.
3. Broad issues that span across multiple sites are addressed below. Mr Morrissey's evidence addresses site-specific matters raised and provides a revised recommendation on each site.

Purpose of Variation 2 and relationship to the NPS-UD

4. The Panel sought clarification on the purpose of Variation 2.
5. The first key matter to address is whether Variation 2 has an overarching purpose to give effect to the NPS-UD, and then whether the Panel is then obligated to judge whether or not the NPS-UD capacity requirements have been met. If it considers they have not been met, is this as a reason to support plan change areas promoted by submitters but not supported by reporting officers?
6. This question has been addressed in part by Mr Garbett in legal submissions and I concur with his assessment about the requirements of the NPS-UD and the role of the variation within those requirements. Mr Garbett accurately covered the approach the DCC has taken to provide for additional capacity as required by the NPS-UD. I agree Variation 2 is not a tool to fully respond to the on-going requirements of the NPS-UD, but a series of proposed changes to provide additional residential capacity in identified locations. It is also not the responsibility of the Panel to ensure that all capacity requirements are met through the options available through Variation 2. The Panel's role is to assess the appropriateness, or not, of the particular sites put forward (including sites requested through submissions).
7. Following the argument outlined above, representatives for submitters for a number of sites have challenged the accuracy of the housing capacity assessment undertaken in response to the NPS-UD. Mr Stocker's evidence is that the assessment is appropriate and in accordance with the requirements of the NPS-UD and best practice, has been subject to a favourable peer review, and therefore that its findings can be relied on.
8. As outlined by Mr Stocker and confirmed by Mr Garbett, there is no requirement to undertake capacity assessments nor to provide for capacity at an individual township or settlement level.
9. Further, following the submission of Mr Garbett, this means that even if the Panel prefer the evidence of Mr Osbourne over that of Mr Stocker and believe that a shortfall in capacity remains, the NPS-UD would direct that the DCC identify further areas of land that are suitable for rezoning and undertake a plan change to address the capacity shortfall. For a Council initiated plan change this would involve a planning assessment to identify sites or areas that are appropriate and well aligned with the 2GP's strategic directions.
10. Importantly, the NPS does not require that the Panel must add any shortfall in capacity through rejected alternatives from a DCC initiated plan variation.

11. I note that the NPS-UD at its core promotes strategic planning for growth. This is clear from the requirements to prepare and regularly update a Future Development Strategy, and also to ensure that development capacity is infrastructure-ready. Effective provision of infrastructure requires strategic planning. The FDS is currently being prepared and will consider the growth needs of Dunedin and identify broadly appropriate locations. Further detailed planning work can then be undertaken to determine appropriate future sites (if required).

Responsive planning

12. The NPS-UD also provides a pathway for 'responsive planning', to consider unanticipated or out-of-sequence developments. The requested sites could be considered in this way. Section 3.8 of the NPS requires that where these developments provide 'significant development capacity', the local authority must have regard to the capacity provided by the plan change, if that development capacity:
- a. would contribute to a well-functioning urban environment; and
 - b. is well-connected along transport corridors; and
 - c. meets the criteria outlined in the regional policy statement as 'significant'.
13. I have included the relevant policies of the NPS-UD appended to my evidence including Policy 1 from the NPS-UD which defines what a 'well-functioning urban environment' is. Importantly this includes environments which: "(c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport" and "(e) support reductions in greenhouse gas emissions".
14. The proposed Regional Policy Statement 2021 (pRPS)¹ Policy UFD-P10 outlines the proposed criteria for 'significant development capacity'. This is reproduced in Appendix 1. In summary, these criteria include positively contributing to a well-functioning environment, being well connected to an existing or planned urban area, development infrastructure can be efficiently and effectively provided, the site meets an identified need or shortage in housing capacity, and provides a relatively high yield.
15. These factors closely align with those in Policy 2.6.2.1. I also note that that the criteria outlined in Policy UFD-P10 must all be met. Assessment of the requested sites in accordance with Policy 2.6.2.1 is therefore consistent with this aspect of the NPS-UD.

Assessment against Policy 2.6.2.1

16. Policy 2.6.2.1 in the 2GP strategic directions sets the tests that must be considered when making a decision on zoning a site residential. It sits under Objective 2.6.2, which reads:

Dunedin provides sufficient, feasible, development capacity (as intensification opportunities and zoned urban land) in the most appropriate locations to at least meet demand over the medium term (up to 10 years), while sustainably managing urban expansion in a way that maintains a compact city with resilient townships as outlined in Objective 2.2.4 and policies 2.2.4.1 to 2.2.4.3.

¹ Note that the proposed RPS has not yet been heard or decisions made and is therefore at an early stage in the process.

17. Policy 2.6.2.1 draws together relevant (usually strategic) objectives that must be considered. I note that the policy does not require that 'a majority' of the criteria must be met, which implies that only 50% need to be complied with. The wording is:

'Identify areas for residential zoning based on the following criteria...'

18. Only clause c, which details aspects primarily related to achieving a compact city, refers to a majority of those aspects needing to be met.
19. The various criteria in Policy 2.6.2.1 sit under the over-riding approach outlined in the objective, to zone land 'in the most appropriate locations' and while 'sustainably managing urban expansion in a way that maintains a compact city with resilient townships'. While sites are promoted and need to be considered individually on their merits, the objective remains relevant.
20. As discussed at the hearing, the weight given to the various criteria referenced within Policy 2.6.2.1(d) must be considered in the context of the situation. I also acknowledge, and agree with, Mr Garbett's submissions that the wording of the objectives and policies referenced should be considered in terms of how directive each is. For example, the protection of significant and outstanding natural landscapes is a directive policy. However, in addition, in my view, some criteria should generally be given strong weight for other reasons. For example, I consider that significant weight should be given to the effective and efficient provision of infrastructure. This is due to its emphasis in the NPS-UD, which directs that land use planning is integrated with infrastructure planning and that capacity must be assessed in terms of the degree to which it is infrastructure ready (available or planned for). It is also important due to the cumulative nature of this issue which requires a strategic approach.
21. Further, the inability to effectively manage the 3 waters can lead to significant environmental and health and safety issues, and so should preclude the zoning of land for residential purposes if this is of significant concern. For wastewater services in particular, it is important to consider the implications of network or on-site treatment system failure on freshwater and coastal resources, in order to ensure that the objectives of the NPS for Freshwater Management and the New Zealand Coastal Policy Statement are met. As 3 waters issues are cumulative in nature, care should be given to looking at these matters holistically. DCC 3 Waters has identified where networks are constrained and subject to periodic overflow. Adding additional development capacity in these networks beyond that already anticipated (through plan-enabled development, resolution of existing appeals and Variation 2 notified sites) will further exacerbate these issues and create inconsistency with these higher order documents.
22. In my view, management of hazards should also be given significant weight due to the implications for health and safety and because most hazards are predicted to worsen over time due to climate change.
23. I also consider the criterion around a compact city and resilient townships to be important due to its 'overall urban form outcome' status in the Spatial Plan, its alignment with Policy 1 clauses (c) and (e) of the NPS-UD, the 'direction of travel' in national direction in terms of intensification of existing urban areas, as evidenced by recent amendments to the RMA applying to Tier 1 urban areas, and the increasing concern and need to reduce carbon emissions and prepare for climate change.
24. Further, while I accept that depending on the circumstances not every criterion may need to be met for a site to be considered appropriate, in my view where some criteria are not met

there should generally be an expectation that significant benefits in relation to other criteria are present, to provide an overall positive alignment with the Plan's objectives. This reflects a broad judgement approach that should be taken. Simply ticking some of the boxes is not appropriate.

25. Finally, the assessment of alignment with each of the criteria needs to be supported by appropriate expert evidence, not conjecture or unsubstantiated opinions. That evidence should demonstrate that any issues can be economically and practically feasibly resolved, their resolution does not create other unacceptable adverse effects, it is clear who will be responsible for resolving them, and there is confidence that any further processes that are relied on (eg. subdivision consents) will ensure their satisfactory resolution.

Discussion on 'compact city and resilient townships' objective

26. The Panel asked a number of questions in relation to the application of Policy 2.6.2.1.d.xi, in relation to a compact city and resilient townships. Submitters in relation to sites at Outram, Allanton and Brighton were critical that a 'Dunedin-centric' approach had been taken in relation to the application of this policy.
27. Both Objective 2.6.2 and Policy 2.6.2.1 refer to maintaining a compact city with resilient townships, and refer to Objective 2.2.4 and policies 2.2.4.1 to 2.2.4.3.
28. Objective 2.2.4 is:

Dunedin stays a compact and accessible city with resilient townships based on sustainably managed urban expansion. Urban expansion only occurs if required and in the most appropriate form and locations.

29. The term 'compact city' comes from the DCC's Spatial Plan, which was adopted in September 2012, as part of a Local Government Act (LGA) strategic planning exercise that was undertaken, in part, to help guide the development of the 2GP. The most important characteristics of what makes a 'compact and accessible city', is a city that supports public transport and active transport modes due to its density, diversity and distribution of land use, and the design of its built form. This approach is similar to clause (c) of the NPS-UD, as outlined earlier.
30. The Spatial Plan explains that cities that are compact allow people the option of living without a car as most destinations can be accessed by foot, bike or public transport. Cities that demonstrate urban sprawl do not have this feature. Dunedin shares many of the characteristics of a compact city and it is an appropriate descriptor of the city.
31. Sustainably managed urban expansion considers the factors above – the ability to walk and use public transport to access services and amenities. Zoning decisions that achieve this will focus on land close to centres, other community facilities and services and public transport routes, and minimise walking times where possible, and will provide for efficient land development, eg. through zoning a medium or suburban density (ie. General Residential 1 or 2) rather than Large Lot (see Policy 2.2.4.1).
32. This urban form provides multiple benefits, including providing for efficient provision of infrastructure, minimising vehicle use (and therefore reducing traffic and carbon emissions), and reducing loss of productive rural land, rural amenity, biodiversity and significant natural values.

33. A compact city is not achieved by zoning patches of large lot development disconnected from existing urban centres. This development pattern (for example sites RS109 and RS212 at Riccarton Road East, and RS157 at Blackhead Road) does not meet this objective.
34. With respect to sites at Outram, the assessment against Objective 2.2.4 reflects the focus on the transport-related aspects of maintaining a compact city (and a 'well-functioning urban environment'), in that development in this location is further from the main sources of work and high schools (at Dunedin and Mosgiel), and currently cannot access public transport, meaning more housing will result in additional traffic and related carbon emissions.
35. However, I agree that Objective 2.2.4 also discusses supporting Dunedin to have resilient townships and that little attention has been given in the assessments to whether resilience may be maintained or improved. This is due to the inherent difficulty in demonstrating how change may maintain or improve resilience, except perhaps in its meaning in relation to natural hazards, where these have been identified. As explained below, the evaluation of sites for inclusion in Variation 2 was iterative and initially involved screening against some key criteria, then more progressive and detailed evaluation based on performance against additional criteria. The focus of the more detailed evaluation was on sites that scored better against earlier criteria, which was often not the case with sites in outlying areas as explained above.
36. Townships are not defined or identified in the 2GP, however the introduction to Section 15 – Residential Zones includes zone descriptions and states:

5.1.1.7 Township and Settlement

The Township and Settlement Zone applies to areas beyond the main urban areas of Dunedin and Mosgiel and includes areas that were once independent settlements, such as Port Chalmers and Portobello. It includes larger residential townships supported by a commercial centre and smaller residential settlements that are not attached to a commercial centre. ...

37. The Spatial Plan defines townships as follows:

Townships – are the outlying residential settlements that have a centre and a range of community facilities and services. Townships include Mosgiel, Waikouaiti, Port Chalmers, Waitati, Middelmarsh, Outram, Brighton, and Portobello.

38. Following these descriptors, of the areas being considered, Brighton and Outram (which both have commercial centre zones) are townships, but Allanton is not.
39. Resilience is also not defined in the 2GP, but may include factors such as:
- a. community and commercial services to support residents, for example a doctor, food store, primary school, library, public transport.
 - b. having sufficient business land and activity to provide employment (and services) for residents
 - c. avoiding hazards, or having sufficient land available for people to move away from hazards
40. Resilience, and the factors necessary to maintain it, is difficult to determine. An increase in population may not directly lead to an increase in resilience. For example, an existing service may not need additional people to remain viable. Equally, to attract some services a significant

increase in population may be required, such that zoning a relatively modest increase will not achieve it.

41. While Ms Peters and various other witnesses argued that there is demand for residential sites in the Outram, Brighton (and Allanton) areas, no evidence was presented that additional zoned capacity is required to maintain or achieve resilient townships. DCC has no evidence at the present time that further capacity will either maintain existing resilience or improve resilience. Looking at the townships individually:
 - a. Outram has a rural centre zone and a number of services and amenities, including a primary school with a reasonably steady roll, a medical centre, a 4 square supermarket, a café, garage, and a childcare centre. It does not have any public transport.
 - b. Brighton has a neighbourhood centre zone, primary school, dairy, café and bus service to Dunedin.
42. Allanton has no centre zone and I am not aware of any major services operating there.
43. The most appropriate way to determine whether a population increase is necessary to maintain resilience is through the Future Development Strategy (FDS) process. This will also allow consideration of any associated infrastructure needs in an integrated way. Dunedin's outlying settlements are within the scope of the FDS and the work programme will consider whether there are opportunities/options to better support their resilience in the longer-term. This will include engagement with Community Boards to develop DCC's understanding of local issues and priorities as part of this process.
44. Furthermore, for the requested sites in the townships/settlement listed above, any improvements to resilience are unlikely to be significant enough to counterbalance the failure of these sites to meet other (in my view) important criteria in Policy 2.6.2.1 related to lack of infrastructure to support growth, and in some cases risks from natural hazards that are likely to worsen over time due to the effects of climate change.

The level of assessment of the 'rejected sites' and 'knock out' criteria

45. The Panel has noted that the initial assessment of some of the rejected sites was incomplete, and appeared to stop after some 'knock out' criteria were met. This is correct and is best explained in terms of the process by which Variation 2 evolved. As discussed above Variation 2 was initiated in part to respond to the findings of the housing capacity assessment, which identified a shortfall in residential capacity.
46. For the greenfields part of the investigation this involved an initial 'traffic light' assessment of the entire city, where areas were scored at a high level on a range of criteria reflecting the criteria in Policy 2.6.2.1 (for example distance from centres, presence of a significant landscape overlay). However, DCC also sought suggestions for suitable sites from the development community, particularly planners, developers and surveyors.
47. These suggested sites were first subject to a high level 'screening' level of assessment against a few key criteria (for example hazard risk, known infrastructure issues, known significant landscape or biodiversity values). In addition to the key criteria, a further key consideration was that the site would provide a reasonable return in terms of additional housing capacity

(eg. rural residential proposals were discounted). If sites did not pass these screening criteria they were rejected.

48. Use of key criteria to screen a large set of options is a pragmatic approach in order to focus time and resources on sites that are most likely to be appropriate, given the time and cost involved in undertaking a full assessment.
49. For many plan changes, options that are rejected at a screening stage are not included as alternative options for the purposes of a s32 (and therefore open to submissions). Instead, only those sites subject to a fuller evaluation are included. However in the case of Variation 2, even sites that were rejected through the screening stage were included in the s32 report, and therefore open to submissions.

Use of Large Lot Residential zoning

50. I note that changes notified through Variation 2 (GF sites) are primarily for General Residential 1, 2 or Township and Settlement zoning. Only a small number of sites were notified for Large Lot Residential 1 zoning, for site specific reasons. No sites were notified for Large Lot Residential 2 zoning.
51. Very low density development is now proposed by a number of submitters as a way of mitigating issues related to lack of infrastructure.
52. In keeping with the objective of a compact city with resilient townships, the 2GP requires that urban land is used efficiently. This includes that land is zoned at a General Residential 1 or 2 zoning unless site specific factors make this inappropriate. Policy 2.2.4.1 reads:

Prioritise the efficient use of existing urban land over urban expansion by:

- a. identifying existing areas of urban land in a range of locations that could be used more efficiently to provide for medium density housing in accordance with Policy 2.6.2.3; and
 - b. ensuring that land is used efficiently and zoned at a standard or medium density (General Residential 1, General Residential 2, Inner City Residential, Low Density, or Township and Settlement), except if: hazards; slope; the need for on-site stormwater storage; the need to protect important biodiversity, water bodies, landscape or natural character values; or other factors make a standard density of residential development inappropriate; in which case, a large lot zoning or a structure plan mapped area should be used as appropriate.
53. On-site servicing because water or wastewater services are either not available or are at capacity is not a reason listed in Policy 2.2.4.1 to use large lot zoning. Zoning has been proposed or undertaken previously for some sites where this is the case, but generally additional reasons for large lot zoning are also present. If services are unavailable but are planned to be provided within a reasonable timeframe (for example 15 years), the most appropriate method is to use a Residential Transition Overlay (RTZ). This allows land to be identified and 'held' for future residential use at an appropriate density once infrastructure is available.
 54. Ms Peters proposed that Large Lot Residential zoning is applied to site RS212 with a structure plan that requires development to provide for future intensification. While this is theoretically

possible, and DCC has considered this approach in the past, it is considered to be too problematic, particularly in terms of ensuring services are installed (or easily able to be installed) for future sites at the time of initial development, who pays for these services, and a lack of certainty that future more intensive development will result (and therefore difficulty in recouping upfront costs). It also potentially locks in an inefficient development pattern as owners are reluctant to subdivide.

SNL provisions and residential zoning

55. Several of the requested sites are overlain with SNL or ONL overlays. As outlined in the s42A report, a key attribute of landscape overlays is naturalness. Urban land use is, in essence, incompatible with this; in particular, the density of built development provided for in urban zones. This is reinforced in Policy 2.6.2.1.d.iv, which is that:

Dunedin's outstanding and significant natural landscapes and natural features are protected (Objective 2.4.4). Achieving this includes generally avoiding the application of new residential zoning in ONF, ONL and SNL overlay zones; ...

56. Mr Page identified that Section 10 provisions relating to protection of SNL values apply to all zones, not just rural and rural residential. Therefore, if a residential zone was overlain with an SNL, these provisions would also apply. This is correct. However, the more critical factor is whether an SNL area should be rezoned to residential, and whether in doing so the SNL values would be protected, as outlined in the policy above.
57. I note that there is currently only one small area of residential zoning that is subject to an SNL. This is at Pukehiki and resulted from an appeal to extend the areas of SNL and ONL on the Otago Peninsula. The rules in section 10 recognise the residential nature of Pukehiki, and provide for new houses as a permitted activity, rather than (in all other areas) permitting only buildings less than 60m² footprint (Rule 10.3.5.X).
58. For site RS161 (210 Signal Hill Road), plan rules that would provide for subdivision into three lots (an average of 2ha per lot) is now being promoted. According to the Plan's zone descriptions, this would be Rural Residential 1 zoning. Mr McKinlay concludes that effects on landscape values of the proposal would be moderate to low. Rural residential zoning does occur within SNL areas, often with landscape building platforms identified. As noted above, given that Variation 2 did not accept other suggestions for rural residential zoning into its screening phase and similar proposals were later deemed out of scope, I believe there is a natural justice issue in allowing the consideration of rural residential zoning for this site through a 'back door' approach (that is, treating this request as within scope). It would also be problematic for plan integrity to have a set of plan rules that reflect one zone type (rural residential zone) but called a different zone name (large lot residential). I recommend that this not be done for reasons of plan integrity and clarity.
59. In my view, the appropriateness of a rural residential scale development is best considered through a future rural residential plan change rather than through Variation 2.

Rural zoning and vegetation clearance

60. Mr Page presented submissions in relation to sites RS77 and 206 (Watts Road) that the rural zone provisions are not a tool to protect vegetation and biodiversity values. He stated that

methods including urban biodiversity mapped areas (UBMA) and areas of significant biodiversity values (ASBV) exist in the 2GP to protect vegetation, and none of these overlays are present on the site. I do not agree with the initial statement above. The rural zones not only have a purpose related to biodiversity they also have rules specific to managing indigenous vegetation clearance within them (albeit not as strictly as the rules that apply in ASBVs).

61. The introduction to Section 16 – Rural zones describes the purpose of the rural zones as follows:

The principal functions of the rural environment are firstly to provide for productive rural activities such as pastoral farming, livestock, horticulture, forestry, and mining and associated resource-based activities; and secondly, the provision of ecosystem services - soil, water and air resources and the setting for the vast majority of the city's indigenous vegetation and habitat for indigenous species.

62. Rule 10.3.2.1 provides for clearance of 1,000m² of indigenous vegetation every three years. Vegetation clearance exceeding this is a restricted discretionary activity. Rule 10.3.2.2 limits vegetation clearance adjacent to water bodies, and Rule 10.3.2.3 protects specific indigenous species. Area E of site RS77/206 is approximately 37,500m² in area, although it is not known how much of this has indigenous vegetation cover.
63. Objective 2.2.3 is to protect or enhance Dunedin's significant indigenous biodiversity. The standard approach when considering rezoning to residential is to identify any areas of significant indigenous vegetation, and if significant vegetation is present but the site is otherwise deemed appropriate for residential zoning, to apply appropriate protection (for example a UBMA or structure plan rules). Alternatively, to exclude those parts of the site from the area to be rezoned. Permission was sought from the landowners of RS77/206 for DCC's biodiversity expert to visit sites RS77 and 206 prior to preparing the s42A Report, but this was not received in time. Until this is done, the biodiversity values of the site, and the level of protection required should zoning proceed, are not known.

Productivity of Rural Land

64. The Panel asked whether there was an expectation in the 2GP that rural land should be economically viable. A number of submitters requesting re-zoning did so on the basis that sites were relatively small and an economic return had not been possible (although I note that at least two submitters had owned the land for a very short period). In my opinion this is not a valid expectation or relevant criteria under Policy 2.6.2.1.
65. As noted above, the principal functions of the rural environment are both to provide for productive rural activities and to provide ecosystem services. There is no expectation that all rural zoned land will achieve an economic return sufficient to provide a sole income for one or more landowners. It is well known that many small rural properties only provide supplementary income. However, they may still be important collectively for the overall rural economy, for example by growing feed sources (hay and baleage) for more intensive farming operations or supporting contractors that service small rural food producers. Some rural land may have no economic return but may provide invaluable ecosystem services or act to protect values important to communities (for example outstanding or significant modified pastoral landscapes).

66. The 2GP does recognise as an issue the fragmentation of rural land, such that productive use is hard to achieve. Dunedin has a large number of rural sites as a result of historic subdivision patterns under previous planning instruments, and pressure for subdivision continues to threaten this. Rural Residential zoning is used in the plan in response to this (amongst other) issues.
67. However, zoning these relatively small and disconnected areas to residential areas is not consistent with a number of the criteria in Policy 2.6.2.1 and does not achieve a coherent and integrated urban environment. Instead, rural property amalgamation may be a more relevant goal in some parts of Dunedin to meet the Plan's strategic directions.

Urban Design Controls

68. In section 4.4 of the section 42A report, Mr Morrissey discusses the application of design controls within residential areas and notes that the 2GP does not currently provide for this. A new method would therefore need to be included in the Plan if the Panel were of a mind to implement this approach. This is because should performance standards setting design controls be breached, there is no policy framework against which to assess the breach.
69. In the evidence received, urban design controls appear to be proposed for two reasons. Firstly, to retain a high level of amenity for neighbours (for example a limit on roof height to protect views from particular houses) or setbacks from boundaries, and secondly concerns about a general reduction in potentially high (but not significant) landscape amenity values enjoyed by a wider cross-section of the public, where it is considered that landscape controls may mitigate this effect. (I note that where the landscape values are significant, landscapes are protected through an SNL overlay, as discussed above).
70. Section 32 of the Act requires that when evaluating methods to achieve an objective it is necessary to consider their costs and benefits. Costs include administrative costs, which are funded either through consent application fees or rates or in most cases a mixture of both. DCC expert urban design and landscape architect involvement in consent applications is not recovered from consent applicants but is rate-payer funded. There is therefore a partial ratepayer subsidy for consents of this type.
71. Bespoke localised urban design controls that are primarily to maintain amenity for local residents are therefore generally not evaluated favourably due to the costs (which are partly publicly funded) exceeding the benefits (which are often private or localised). Increasing the number of these rules, which are likely trigger additional consent applications, will lead to the need for additional staff to assess, monitor and enforce the rules, increasing costs to the ratepayer. This is not an efficient management approach.
72. In addition, applying urban design controls to some urban areas, but not others, for specific local benefit, is not a consistent approach and in my view is generally not appropriate.
73. Where controls are suggested to manage wider public landscape amenity effects, the Panel should consider whether these amenity effects are significant enough to warrant control (noting that these landscapes are not classified as SNLs or ONLs), and if so, whether rezoning is appropriate under Policy 2.6.2.1.

Scope of amended submissions

74. The Panel questioned whether there is scope for a submitter to amend their relief sought through evidence, for example to seek a lower density zoning.
75. In my opinion, there is scope for these requests in principle. As a general rule, scope is limited by the current zoning on one hand, and the zoning sought on the other. Any zone or approach that is between these two extremes is within scope, as the effects of this are within those bounds. There is no scope for an increase in density, which is likely to have additional effects that have not been considered by further submitters.
76. However, the changes sought may throw up new issues with policy alignment that may not have existed with the original proposal, particularly, as discussed above, in relation to the policy direction in the plan related to large lot zoning. It may also mean that the proposal no longer resembles that which was originally considered for screening, with the main focus of Variation 2 on housing capacity proposals, which enabled it to be considered as a rejected site. This may create some natural justice issues, as if these sites had been proposed as now suggested, they would not have been considered within scope. It may also create natural justice issues if there may be other submitters or further submitters who may have chosen to get involved if had they realised that the new proposal was a possibility but did not anticipate that.

On-site wastewater disposal

77. I note that during the course of the hearing some submitters proposed utilising onsite wastewater disposal, either as a communal wastewater system, or through individual site systems. Discharge of wastewater is subject to the Regional Plan: Water for Otago, which is administered by the Otago Regional Council.
78. I have been advised by the ORC that at present the Regional Plan Water is permissive when it comes to individual on-site disposal (systems discharging less than 2,000m³/day), but consent is required for larger (e.g communal) systems. Consent is also required for smaller systems where the site is overlain by a groundwater protection zone. The mapped groundwater protection zone² covers the majority of the established parts of Outram, but does not extend to areas around this, including sites RS154 and 175. I understand from the ORC that at the time the rule was put in place, residential development was not anticipated in the area surrounding Outram. The groundwater protection zone also does not cover Allanton.
79. As further background, the Regional Water Plan is currently under review, including for the purposes of achieving consistency with the NPS for Freshwater Management and the NES Freshwater. The ORC advises that it is reasonable to anticipate that that the review will consider the existing on-site disposal provisions as well as explore new provisions of a permitted activity rule related, but not limited, to:
- a. A minimum area per discharge
 - b. A maximum residential density (dwellings) per specified area, and a maximum population number in that area

² <https://www.orc.govt.nz/media/11851/c-map-series-c24.pdf>

c. More specific design/installations requirements (in lines with relevant standards)

80. This approach would be consistent with (for example) the permitted activity rule for discharging wastewater in Environment Canterbury's Land and Water Plan. The extent of the groundwater protection zone might also be considered, and if there is any new information to support revising it.
81. I note, however, that no changes to rules have yet been notified.
82. Throughout the 2GP process the ORC has expressed significant concerns about rezoning areas where wastewater disposal may impact on freshwater or coastal waters. In these cases, there has been a preference for requiring communal wastewater systems if areas are rezoned to enable effective monitoring of system performance and discharges.

Appendix 1 – Relevant planning provisions

National Policy Statement for Urban Development

Policy 1

Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:

- a. have or enable a variety of homes that:
 - i. meet the needs, in terms of type, price, and location, of different households; and
 - ii. enable Māori to express their cultural traditions and norms; and
- b. have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and
- c. have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and
- d. support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and
- e. support reductions in greenhouse gas emissions; and
- f. are resilient to the likely current and future effects of climate change.

Proposed Otago Regional Policy Statement

Policy UFD-P10– Criteria for significant development capacity

‘Significant development capacity’ is provided for where a proposed plan change affecting an *urban environment* meets all of the following criteria:

1. the location, design and layout of the proposal will positively contribute to achieving a *well-functioning urban environment*,
2. the proposal is well-connected to the existing or planned urban area, particularly if it is located along existing or planned transport corridors,
3. required *development infrastructure* can be provided effectively and efficiently for the proposal, and without material impact on planned *development infrastructure* provision to, or reduction in *development infrastructure* capacity available for, other feasible likely to be realised developments in the short-medium term,
4. the proposal makes a significant contribution to meeting a need identified in a *Housing and Business Development Capacity Assessment*, or a shortage identified in monitoring for:
 - a. housing of a particular price range or typology, particularly more affordable housing,

- b. business space or *land* of a particular size or locational type, or
 - c. community or educational facilities, and
- 5. when considering the significance of the proposal's contribution to a matter in (4), this means that the proposal's contribution:
 - a. is of high yield relative to either the forecast demand or the identified shortfall,
 - b. will be realised in a timely (i.e. rapid) manner,
 - c. is likely to be taken up, and
 - d. will facilitate a net increase in district-wide up-take in the short to medium term.