

**Before a Panel Appointed by the
Dunedin City Council**

Under the Resource Management Act 1991 (**RMA**)

In the Matter of Hearing 4 of the Proposed Variation 2 (Additional
Housing Capacity) of the Second Generation Dunedin
District Plan – Appeals Version (**2GP**)

By **Ross McLeary**

And

By **COF Limited**

And

By **Scroggs Hill Farm Limited**

Response to Section 42A Addendum
on behalf of:

Ross McLeary, COF Limited, Scroggs Hill Farm Limited
(Submission 249 – Requested Site 160)

Dated 22nd November 2022

Background:

1. My name is Emma Rayner Peters. I hold a BA and LLB both from the University of Otago and a First Class Honours degree and MA with Distinction, both from the University of Canterbury. I have worked as a solicitor in the areas of commercial and environmental law. I have been the principal of Sweep Consultancy Limited since 2003 providing resource management advice predominantly in the Dunedin City, Clutha, Waitaki, Queenstown Lakes and Central Otago districts.
2. I have prepared this evidence based upon my investigations and knowledge of the submission, further submissions and Variation 2 of the Dunedin City Second Generation District Plan Appeals Version including Council's s32 report, s42a report and evidence from Council staff.
3. I acknowledge we are not before the Environment Court. However, I have read the Code of Conduct for Expert Witnesses within the Environment Court Consolidated Practice Note 2014 and I agree to comply with that Code. This evidence is within my area of expertise, except where I state that I am relying on the evidence of another person. To the best of my knowledge, I have not omitted to consider any material facts known to me that might alter or detract from the opinions expressed in this evidence.
4. At the request of the Variation 2 Hearing Panel (**Panel**), Dunedin City Council (**Council**) has prepared an addendum to its Section 42A Report (**Addendum**). The Addendum addresses the relevant considerations in the National Policy Statement for Highly Productive Land (**NPS-HPL**) for those sites zoned rural and classified as Land Use Capability (**LUC**) 1, 2 or 3 land, as set out in the table attached to Mr Morrissey's response to Minute 17.

RS160 & HPL:

5. The submitters¹ reserve their position in relation to whether, at law, the NPS-HPL applies to RS 160. However, in fact, the LUC 3 land comprises a very small part of the site as shown in Figure 1 below.

1 Mr Ross McLeary, COF Limited and Scroggs Hill Farm Limited – submission 249.

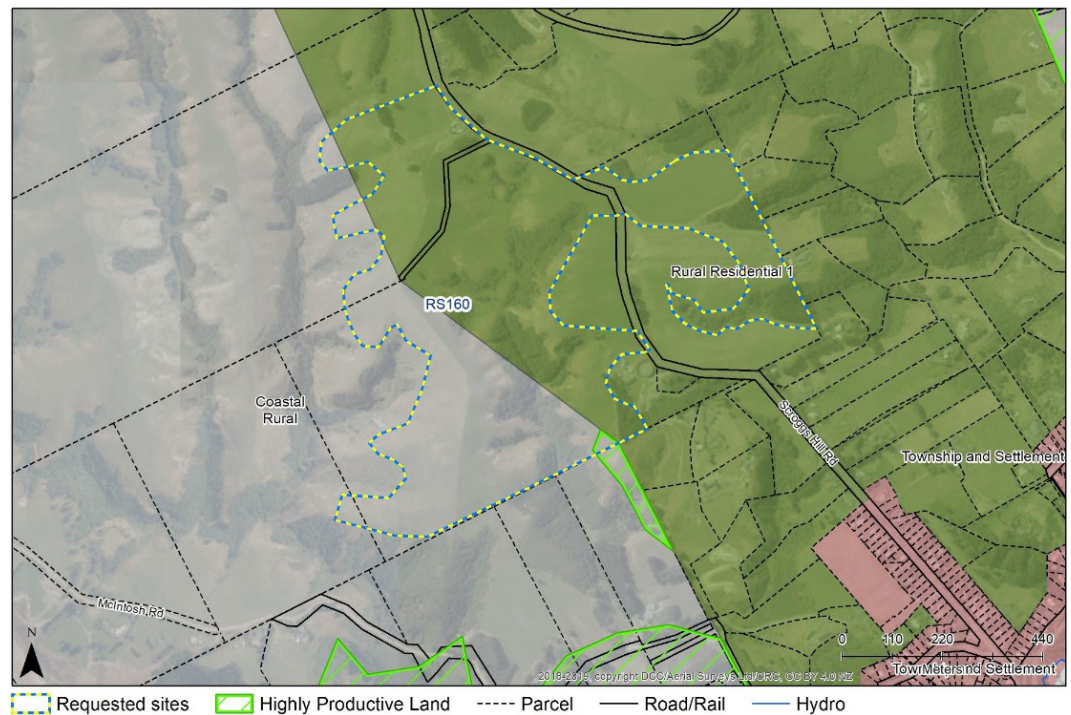


Figure 1: HPL in Relation RS 160².

6. The submission requested changing this area to *Large Lot Residential 1* as is shown in the structure plan attached to submission 249 – copy appended for convenience at Appendix 1.
7. In the event that RS 160 is rezoned large lot residential, the small area of LUC 3 land within RS160 will be included in a record of title with an identified building platform situated outside of that small area of LUC 3 land to ensure that no residential activity occurs on that LUC 3 land.
8. On behalf of the submitters it is noted that:
 - RS 160 is very well suited to being rezoned large lot residential and any adverse effects on landscape can be mitigated by controls on built form and mitigation (indigenous) planting.
 - Rezoning RS 160 provides the opportunity for a recreation reserve including a walking track (to be formed as part of the subdivision process subsequent to rezoning).
 - The effect of the NPS-HPL on the rezoning of RS 160 is negligible and easily managed as discussed at paragraph 7 above.
 - The NPS-HPL and flooding/instability constraints in the Dunedin area

² Source: Addendum, Appendix 2.

mean that there is little room for expansion of the City to provide choice in both types and location of housing and the necessary supply of housing. The areas of RS 160 to be rezoned large lot residential as identified on the structure plan are unaffected by these constraints.

- Given the long lead times in rezoning land, undertaking development works and constructing houses, it is critical that a very wide margin in terms of supply of residential zoned land is provided via greenfield residential rezonings Hearing 4, Variation 2 decisions.
- It is not the role of Council to overly control the supply of land for housing. The NPS-UD 2020 sets a minimum level in relation to supply of residential zoned capacity and there is no prohibition on the exceedance of that minimum level. Truly, supply of residential capacity is the only lever that Council has to bring about affordable housing which is one of the stated objectives of the NPS-UD 2020³.
- Council has not been overly accurate in its analysis of demand, zoned capacity or required capacity to meet demand in previous iteration. For example, with respect to: (i) the Dunedin City District Plan 2006, the Environment Court imposed residential rezoning of tracts of land around Mosgiel; and (ii) with respect to the 2GP – it was only upon the NPS-UD 2020 coming into force that Dunedin City Council 'believed' it needed more residential capacity, hence Variation 2.
- Any future development strategy promulgated by Council in and of itself does not rezone land residential. The need for: (i) the Otago Regional Council to undertake its mapping and adopt a plan/plan change with respect to highly productive land (3 years); and (ii) Dunedin City Council to undertake its Future Development Strategy (likely 2 to 3 years but could be longer if it is to be informed by the Otago Regional Council's mapping/plan exercise); means that there will be a long lead time between residential rezoning which occurs pursuant to Variation 2 and any Council initiated plan change for further greenfields residential capacity (likely 2 – 5 years after the completion of i and ii). Changes resulting from private plan changes can only be made to an operative plan.

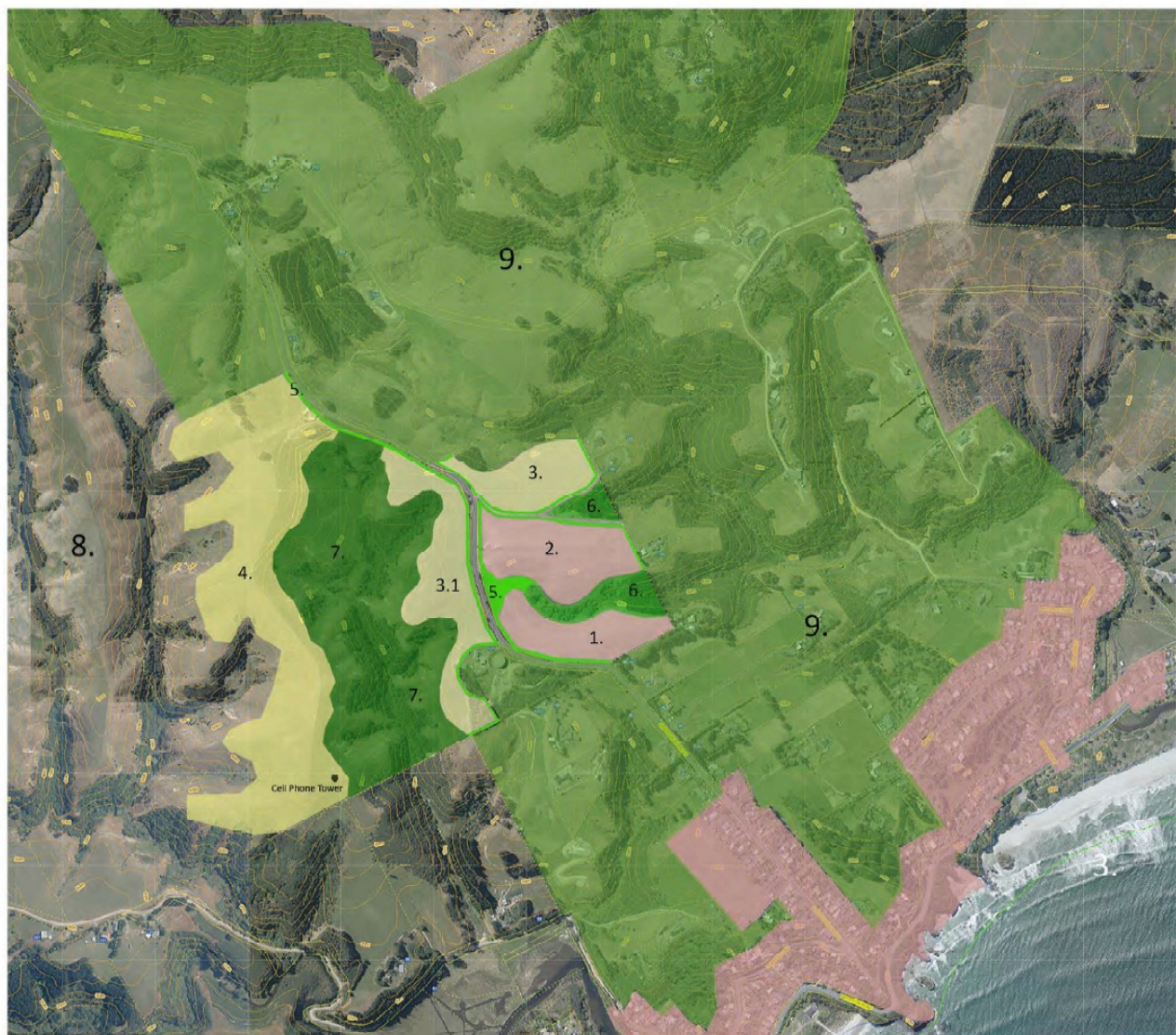
3 See Objective 2.

Dated this 22nd day of November 2022.

A handwritten signature in blue ink, appearing to read 'ERT', with a long horizontal flourish extending to the right.

Emma Rayner Peters (BA (First Class Honours), MA (Distinction), LLB)

Appendix 1: Landscape Structure Plan Included with Submission 249.



legend

1. Township & Settlement - 500 - 750m²
2. Township & Settlement - 1000m²
3. Large Lot Residential 1 - 2000m²
- 3.1 Large Lot Residential 1 - 2000m²
4. Large Lot Residential 2 - 3500m²
5. Environmental enhancement 10m setback:
 - external road boundaries
 - Area 2 and Area 3 access road
 - native tree and shrub planting (Scroggs Hill Rd)
 - grass verge, tracks and tree planting (Area 2/3)
 - cycling track (Scroggs Hill Rd - east side)
6. Conservation and biodiversity:
 - preservation and enhancement of existing native vegetation resources - to be vested in Council or placed in QE II trust covenant, or Area of Significant Biodiversity Value.
7. Recreation zone:
 - land to be vested in Council
 - provision for parking
 - walking track link to Otokai Creek (future)
8. Rural Zone
9. Rural Residential 1 (2GP)

0 500m approx.