



SECOND GENERATION DISTRICT PLAN

Variation 2 Additional Housing Capacity Part 2b – 3 Waters Provisions

Section 42A Report

16 November 2021

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Report Sections: Section 4.1.2 and Section 4.4.

Code of Conduct

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

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List of Abbreviations

2GP	Second Generation Dunedin City District Plan
Act	Resource Management Act 1991
AEP	Annual Exceedance Probability
DCC	Dunedin City Council
GR1	General Residential 1 Zone
GR2	General Residential 2 Zone
ICMA	Infrastructure Constraint Mapped Area
NC	Non-complying
NDMA	New Development Mapped Area
NES	National Environmental Standard
NPS-UD	National Policy Statement on Urban Development 2020
NPS-FM	National Policy Statement for Freshwater Management 2020
NWRA	No DCC Reticulated Wastewater Mapped Area
ORC	Otago Regional Council
P	Permitted
Plan	Second Generation Dunedin City District Plan
pRPS	Proposed Otago Regional Policy Statement 2021
RD	Restricted Discretionary
RMA	Resource Management Act 1991
RTZ	Residential Transition Overlay Zone
SWMP	Stormwater Management Plan
WCMA	Wastewater Constraint Mapped Area

1 Introduction

1.1 Purpose of the Officer's Report

1. This report is prepared under the provisions of section 42A of the Resource Management Act 1991 (RMA) to:
 - assist the Hearing Panel in making their decisions on the submissions and further submissions on Variation 2; and
 - provide submitters with information about how their submissions have been evaluated and the recommendations being made by the officer, prior to the hearing.
2. The evaluations and recommendations presented in this report are based on the information available prior to the hearing, including information contained in submissions.
3. In evaluating the submissions and further submissions, the matters considered include:
 - whether a decision requested is something that should properly be included in a District Plan, considering the functions of Dunedin City Council (DCC) under section 31 of the RMA, and the contents of district plans outlined in section 75 of the RMA;
 - whether the decision requested falls within the purpose of the changes proposed in Variation 2 (i.e. whether it is within scope);
 - the matters to be considered when changing a district plan as outlined in section 74 and 75, including:
 - the matters outlined in section 32 of the RMA, including the objectives of the Plan
 - the provisions of Part 2 of the RMA
 - the need to give effect to any national policy statement or any (operative) regional policy statement
 - the need to have regard to the proposed Regional Policy Statement
 - the need to have regard to the Dunedin Long Term Plan and Infrastructure Strategy and Dunedin Spatial Plan;
 - any restrictions on rules as outlined in section 76; and
 - relevant case law.
4. In preparing this report I have relied on advice from:
 - Mr Jared Oliver and Ms Jacinda Baker, DCC 3 Waters, regarding effects on 3 waters infrastructure;
 - City Development Leadership Team for peer review of my report and recommendations.
5. The recommendations made have also been assessed in terms of the requirements for a further evaluation report set out in section 32AA of the RMA.

1.2 Scope of report

6. This s42a report is the third of four reports that will be presented to assist the Hearings Panel respond to submissions on Variation 2 changes. The focus of this report is on submissions made on the Variation 2 changes outlined in **Table 1** below, which primarily impact Plan provisions for 3 waters infrastructure.

7. The first report dealt with the changes to plan provisions other than for 3 waters infrastructure, the second report dealt with intensification rezoning, and the upcoming fourth report will deal with greenfield rezoning.

Table 1: Variation 2 changes addressed in this Section 42A Report

CHANGE GROUP	CHANGE IDs INCLUDED IN THIS CHANGE GROUP
1. General changes to 3 waters provisions	- Change F1-2 (Review of 3 waters Policy 9.2.1.1, Policy 9.2.1.4 and Policy 9.2.1.6) - Change F2-6 (Provision of 3 waters connections to adjacent land) - Alternative F2-6-Alt1 (Provision of 3 waters connections to adjacent land for all subdivision) - Change F5 (3 waters management for visitor accommodation)
2. Stormwater package	- Change F2-1 (Performance standard for connections to stormwater) - Change F2-2 (Add rules for stormwater management in large greenfield areas) - Change F2-3 (Rules for residential stormwater management other than in large greenfield areas) - Change F2-5 (Impermeable surfaces permitted baseline) - Change F2-7 (Stormwater constraint mapped area method) - Alternative F2-Alt1 (Impermeable surfaces standard) - Alternative F2-Alt2 (Performance standard for on-site stormwater detention) The following groups of Change IDs: - Change F2-2 and Change F2-3 (Rule 9.9.X Stormwater Management Plans)
3. Wastewater package	- Change F3-2 (Wastewater detention in selected large greenfield areas) - Change F3-4 (Health and safety effects from wastewater)
4. Minor 3 waters changes	- Change E8 (Policy 2.7.1.2.a on structure plans) - Change F1-1 (Rule 9.3.7 Service Connections layout) - Change F1-3 (Policy 9.2.1.3 on service connections) - Change F1-4 (Policy 2.2.4.5 on where connections to public infrastructure networks are allowed) - Change F1-5 (Rule 9.3.3 Firefighting) - Change F1-6 (Policy 2.2.5.2 on on-site stormwater and wastewater management) - Change F1-7 (Policy 2.7.1.2.b on Development Contributions Policy and requirements for developers to pay for infrastructure) - Change F1-8 (Policy 2.7.1.2.c on consideration of the long-term costs to the DCC of new infrastructure) - Change F2-4 (Stormwater methods outside the Plan) - Change F3-1 (Location of available public wastewater infrastructure) - Changes NWRA1-7 (Application of the no DCC reticulated wastewater mapped area to selected areas) - Change F3-3 (Renaming the ICMA - infrastructure constraint mapped area) - Change F4-1 (Reference to the DCC Water Bylaw) - Changes WCMA1-4 (Correct errors in ICMA mapping) The following groups of Change IDs: - Change F1-6 and Change F2-2 (Policy 2.2.5.2)
5. Miscellaneous	- All 3 Waters changes - Proposed infrastructure controls for all new development and subdivision activities except for new greenfield land (Changes E3, F1-2, F1-5, F2-2, F2-3, F2-5, F2-6, F3-1, F3-2) - Proposed infrastructure controls for all new development and subdivision activities (Changes E3, F1-2, F1-5, F2-2, F2-3, F2-5, F2-6, F2-7, F3-1, F3-2, NWRA1-7, WCMA2-4) - All NDMA changes (Changes D1, D4-8, E5, F2-2, F3-2, GF01-08, 10-2, 14-16, NDMA2-15 & RTZ1 and RTZ 2)

CHANGE GROUP	CHANGE IDs INCLUDED IN THIS CHANGE GROUP
6. NDMA's on existing residential zoned, intensified residential land or RTZ land	• Changes NDMA02-15 (Mapping NDMA over selected existing greenfield residential areas) • NDMA's on existing RTZ land (Changes NDMA04, 06-10, 12-15) • NDMA's on existing residential land (Changes NDMA02, 03, 05 and IN07)

2 Background

2.1 Planning Background

8. Planning background for Variation 2 was provided in sections 5 and 6 of the Section 32 Report and covered relevant aspects of the:
 - National Policy Statement on Urban Development 2020 (NPS-UD);
 - Partially Operative Otago Regional Policy Statement (RPS);
 - Dunedin's Long Term Plan and Infrastructure Strategy;
 - Dunedin City Spatial Plan;
 - Dunedin City Second Generation District Plan (the Plan);
 - Section 32 statutory considerations.
9. The following sections set out additional and updated information relevant to the statutory context.

2.1.1 Resource Management Act 1991 (RMA)

10. Under the RMA, district plans must be prepared in accordance with the provisions of Part 2 (ss5-8). The purpose of the RMA, as stated in section 5, is the sustainable management of natural and physical resources to meet the reasonably foreseeable needs of future generations which enables people and communities to provide for their social, economic, and cultural well-being while safeguarding the environment.

2.1.2 National Policy Statement for Freshwater Management 2020 (NPS-FM)

11. Under section 75 of the RMA, a district plan must give effect to any national policy statement and the NPS-FM contains some aspects that are relevant to the proposals considered in this report.
12. The NPS-FM includes the fundamental concept of Te Mana o te Wai, which is about restoring and preserving the balance between the water, the wider environment, and the community and recognises that protecting the health of freshwater protects the health and well-being of the wider environment.
13. There is a hierarchy of obligations in Te Mana o te Wai that prioritises the health and well-being of water bodies and freshwater ecosystems above the health needs of people and the ability of people and communities to provide for their social, economic, and cultural well-being. The objective of the NPS-FM seeks to ensure that natural and physical resources are managed in a way that applies these priorities in the order listed.
14. Policies that are of most relevance to the proposals considered in this report are:

- Policy 3: Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.
 - Policy 5: Freshwater is managed through a National Objectives Framework to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.
 - Policy 15: Communities are enabled to provide for their social, economic, and cultural well-being in a way that is consistent with this National Policy Statement.
15. Part 3 of the NPS-UD includes things that local authorities must do to give effect to the NPS-FM. Of relevance to this document, Section 3.5(4) requires every territorial authority to include objectives, policies, and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments.
16. I have considered the above relevant aspects of the NPS-FM in evaluating the submissions received, and in making my recommendations, and consider that the recommendations give effect to the NPS-FM.

2.1.3 Other statutory considerations

17. Also of relevance to this report are the statutory obligations on the Council in providing 3 waters infrastructure services, particularly in terms of discharges it makes. These activities must meet the various requirements of the National Environmental Standards for Freshwater 2020, the Regional Plan: Water for Otago, and the conditions of resource consents that have already been granted.
18. These obligations have been considered as part of the evidence provided by Mr Jared Oliver and Ms Jacinda Baker of DCC 3 Waters.

2.1.4 Further evaluation under Section 32AA of the RMA

19. Section 32AA of the RMA requires that a further evaluation is undertaken for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal (Section 32 Report) was completed. A further evaluation must be undertaken in accordance with section 32(1) to (4) and be undertaken at a level of detail that corresponds to the scale and significance of the changes.
20. In assessing the changes sought through submissions, I have considered the matters set out in section 32 of the RMA. Where I have not recommended changes it is because I did not believe that the change would be a more appropriate way of achieving the objectives of the Plan, or, if a change to an objective was sought, that it would be the most appropriate way to achieve the purpose of the RMA. Where I have recommended a change to the proposal, I have included why I am promoting the change based on the relevant criteria set out in section 32 of the RMA, to the appropriate extent.

2.1.5 Proposed Otago Regional Policy Statement 2021 (pRPS)

21. The Otago Regional Council notified its Proposed Otago Regional Policy Statement 2021 (pRPS) on 26 June 2021 after the further submission process for Variation 2 had closed.
22. Section 74(2)(a)(i) of the RMA requires that a territorial authority has regard to any proposed regional policy statement when changing a district plan. The table below sets out the relevant provisions of the pRPS.

Table 2: Relevant provisions of the Proposed Otago Regional Policy Statement 2021

UFD – Urban form and development	
Objective UFD-01 Form and function of urban areas	The form and functioning of Otago’s urban areas: 1. Reflects the diverse and changing needs and preferences of Otago’s people and communities, now and in the future, and 2. Maintains or enhances the significant values and features identified in this RPS, and the character and resources of each urban area.
Objective UFD-02 Development of urban areas	The development and change of Otago’s urban areas: (1) Improves housing choice, quality, and affordability, (2) allows business and other non-residential activities to meet the needs of communities in appropriate locations, (3) respects and wherever possible enhances the area’s history, setting, and natural and built environment, (4) delivers good urban design outcomes, and improves liveability, (5) improves connectivity within urban areas, particularly by active transport and public transport, (6) minimises conflict between incompatible activities, (7) manages the exposure of risk from natural hazards in accordance with the HAZ–NH – Natural hazards section of this RPS, (8) results in sustainable and efficient use of water, energy, land, and infrastructure, (9) achieves integration of land use with existing and planned development infrastructure and additional infrastructure and facilitates the safe and efficient ongoing use of regionally significant infrastructure, (10) achieves consolidated, well designed and located, and sustainable development in and around existing urban areas as the primary focus for accommodating the region’s urban growth and change, and (11) is guided by the input and involvement of mana whenua.
Objective UFD-03 Strategic planning	Strategic planning is undertaken in advance of significant development, expansion or redevelopment of urban areas to ensure that (1) there is sufficient development capacity supported by integrated infrastructure provision for Otago’s housing and business needs in the short, medium and long term, (2) development is located, designed and delivered in a way and at a rate that recognises and provides for locationally relevant regionally significant features and values identified by this RPS, and (3) the involvement of mana whenua is facilitated, and their values and aspirations are provided for.
Objective UFD-05 Urban development and climate change	The impacts of climate change are responded to in the development and change of Otago’s urban areas so that: (1) the contributions of current communities and future generations to climate change impacts are reduced, (2) community resilience increases, (3) adaptation to the effects of climate change is facilitated, (4) energy use is minimised, and energy efficiency improves, and (5) establishment and use of small and community-scale distributed electricity generation is enabled.
Policy UFD-P3 Urban intensification	Within urban areas intensification is enabled where it: (1) contributes to establishing or maintaining the qualities of a well-functioning urban environment, (2) is well-served by existing or planned development infrastructure and additional infrastructure, ... (6) manages adverse effects on values or resources identified by this RPS that require specific management or protection.
Policy UFD-P4 Urban expansion	Expansion of existing urban areas is facilitated where the expansion: ... (3) is integrated efficiently and effectively with development infrastructure and additional infrastructure in a strategic, timely and co-ordinated way, ...

	(5) manages adverse effects on other values or resources identified by this RPS that require specific management or protection, ...
LF-WAI-O1 Te Mana o te Wai	The mauri of Otago's water bodies and their health and well-being is protected, and restored where it is degraded, and the management of land and water recognises and reflects that: (1) water is the foundation and source of all life – na tew wai ko te hauora o ngā mea katoa, ...
LF-WAI-P1 Prioritisation	In all management of fresh water in Otago, prioritise: (1) first, the health and well-being of water bodies and freshwater ecosystems, te hauora o te wai and te hauora o te taiao, and the exercise of mana whenua to uphold these, (2) second, the health and well-being needs of people, te hauora o te tangata; interacting with water through ingestion (such as drinking water and consuming harvested resources) and immersive activities (such as harvesting resources and bathing), and (3) third, the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future.
LF-WAI-P3 Integrated management/ki uta ki tai	Manage the use of fresh water and land in accordance with tikaka and kawa, using an integrated approach that: (1) recognises and sustains the connections and interactions between water bodies (large and small, surface and ground, fresh and coastal, permanently flowing, intermittent and ephemeral), (2) sustains and, wherever possible, restores the connections and interactions between land and water, from the mountains to the sea, (3) sustains and, wherever possible, restores the habitats of mahika kai and indigenous species, including taoka species associated with the water body, (4) manages the effects of the use and development of land to maintain or enhance the health and well-being of fresh water and coastal water, (5) encourages the coordination and sequencing of regional or urban growth to ensure it is sustainable, (6) has regard to foreseeable climate change risks, and (7) has regard to cumulative effects and the need to apply a precautionary approach where there is limited available information or uncertainty about potential adverse effects.
LF-WAI-P4 Giving effect to Te Mana o te Wai	All persons exercising functions and powers under this RPS and all persons who use, develop or protect resources to which this RPS applies must recognise that LF-WAI-O1, LF-WAI-P1, LF-WAI-P2 and LF-WAI-P3 are fundamental to upholding Te Mana o te Wai, and must be given effect to when making decisions affecting fresh water, including when interpreting and applying the provisions of the LF chapter.
LF-VM-07 Integrated Management	Land and water management apply the ethic of ki uta ki tai and are managed as integrated natural resources, recognising the connections and interactions between fresh water, land and the coastal environment, and between surface water, groundwater and coastal water.
LF-FW-P15 Stormwater and wastewater discharges	Minimise the adverse effects of direct and indirect discharges of stormwater and wastewater to freshwater by: 1 except as required by LF-VM-O2 and LF-VM-O4, preferring discharges of wastewater to land over discharges to water, unless adverse effects associated with a discharge to land are greater than discharge to water, and 2 requiring: a. all sewage, industrial or trade waste to be discharged into a reticulated wastewater system, where one is available, b. all stormwater to be discharged into a reticulated system, where one is available, c. implementation of methods to progressively reduce the frequency and volume of wet weather overflows and minimise the likelihood of dry weather overflows occurring for reticulated stormwater and wastewater systems, d. on-site wastewater systems to be designed and operated in accordance with best practice standards, e. stormwater and wastewater discharges to meet any applicable water quality standards set for FMUs and/or rohe, and

	f. the use of water sensitive urban design techniques to avoid or mitigate the potential adverse effects of contaminants on receiving water bodies from the subdivision, use or development of land, wherever practicable, and 3. promoting the reticulation of stormwater and wastewater in urban areas.
LF-FW-M7	Territorial authorities must prepare or amend and maintain their district plans no later than 31 December 2026 to: 3. require, wherever practicable, the adoption of water sensitive urban design techniques when managing the subdivision, use or development of land, and 4. reduce the adverse effects of stormwater discharges by managing the subdivision, use and development of land to: a. minimise the peak volume of stormwater needing off-site disposal and the load of contaminants carried by it, b. minimise adverse effects on fresh water and coastal water as the ultimate receiving environments, and the capacity of the stormwater network, c. encourage on-site storage of rainfall to detain peak stormwater flows, and d. promote the use of permeable surfaces.

23. I consider that the proposed provisions, including any amendments recommended in this report, are consistent with the PRPS.

3 Structure of the report

3.1 How Proposals and Submissions are Ordered

24. The rest of the report is structured to enable consideration of matters raised in submissions from those that are broad and cut across multiple proposed changes, to those that seek specific amendments to each change proposal.
25. Submissions in support of Variation 2 broadly are addressed first. This is followed by consideration of broad issues raised regarding public infrastructure provision and funding and other broad submissions on all/groups of proposed changes.
26. After consideration of broad matters, the report moves onto sections containing groups of specific change IDs.

3.2 Tables of Original & Further Submissions

27. Tables showing the original submission points being considered for each topic or change ID are provided at the start of each section in the following parts of the report. These tables do not show the further submission points, but these are noted in the discussions on submissions in most instances.
28. Tables showing all submission points that are addressed by this report, including further submissions, are provided in two appendices:
- Appendix A: lists the original submissions relevant to this report in numerical order, with relevant further submissions listed under each original submission; and
 - Appendix B: lists the original and further submissions relevant to this report in alphabetical order by the submitter's first name to enable submitters to see the full list of their submission points that are considered in this report.
29. References to submissions in the body of the report can be found by using the Ctrl>F search function and searching for a submission number or name (searching by last name is best).

3.3 Drafting Mark-up Protocol

30. Recommended changes to the drafting of provisions are shown as set out in **Table 3** below.

Table 3: Drafting mark-up protocol for this report

Type of content	How the content is displayed
Operative 2GP content for which: - changes were not notified; and - no changes are recommended in this report.	Plain or bold text with no underline or strikethrough.
Operative 2GP content for which: - deletion was notified; and - no further changes are recommended in this report.	Plain or bold text with single strikethrough.
Proposed new 2GP content: - which was notified; and - for which no further changes are recommended in this report.	<u>Plain or bold text with single underline.</u>
Operative 2GP content for which: - changes were not notified; but - deletion is recommended in this report.	Plain or bold text with double strikethrough.
Operative 2GP content for which: - changes were not notified; but - proposed new content is recommended in this report.	<u>Plain or bold text with double underline.</u>
Operative 2GP content for which: - deletion was notified; and - it is recommended to retain the operative 2GP content in this report.	<u>Plain or bold text with single strikethrough and double underline.</u>
Proposed new 2GP content which: - was notified; and - is recommended for deletion in this report.	<u>Plain or bold text with single underline and double strikethrough.</u>

4 Summary of submissions and recommendations

4.1 Broad submissions

4.1.1 Broad submissions addressed in earlier report

31. I note that broad submissions on Variation 2 that are relevant to this report have already been addressed in the first Section 42A Report on Provisions (except 3 waters provisions), dated 22 August 2021. Key sections to note in that report include:
- Section 4.1.1 detailing submissions which gave broad support for Variation 2; and
 - Section 4.5.1 detailing submissions on all proposed new development mapped area (NDMA) changes, including those in opposition and seeking amendments. Submissions listed in that section are also considered in Section 4.1.3 below.

4.1.2 Broad submissions on Council's provision and funding of infrastructure

Submissions received

Many submissions regarding the proposed 3 waters provisions (both the broad submissions listed above and other submissions on changes addressed later in this report) raised issues about the provision of, and funding mechanisms for, 3 waters infrastructure. Concerns were raised primarily by surveyors (Paterson Pitts Group and Terramark) and a planning consultant (Sweep Consultancy) on behalf of their own practices, Survey and Spatial NZ (Coastal Otago Branch), and various clients.¹

While funding mechanisms for 3 waters infrastructure are not directly addressed by the 2GP and rightly sit outside the Plan, this section of the report seeks to briefly respond to the issues raised and provide context on funding mechanisms for the benefit of the Panel and submitters. Specific submission points that include concerns regarding 3 waters infrastructure funding are located throughout various sections of the rest of this report. The funding aspects of those submissions are considered here, while other aspects that directly relate to the content of the Plan are addressed later.

¹ Examples include the following duplicate submissions by Paterson Pitts Group on behalf of: Michael David Byck & Nicola Andrea O'Brien S293.006 & S293.008, Mark and Jacqui Taylor S273.008 & S273.009, Max Hope Trust S283.010 & S283.011, Bill Hamilton S298.006 & S298.007, Alan David and David Eric Geeves & Nicola Jane Algie S302.006 & S302.007; Christopher Connor & Tina Prendergast S76.002, S76.008 & S76.026, Glenelg Street Trust Board Incorporated S79.002 & S79.022, Giler and Katherine Wynn-Williams S150.002 & S150.023, Paterson Pitts Group S206.008 & S206.031, Tom and Loretta Richardson S203.020 & S203.018, BA Building Ltd S230.003 & S230.017, Lloyd Morshuis (Morclark Developments) S260.011 & S260.012, D N Innovations Ltd S264.019 & S264.018, Doug Hall S270.002 & S270.024, Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch S282.007 & S282.029, Max Hope Trust S283.008 & S283.012, Karen Knudson & Ross Brown S286.018 & S286.019, Victoria Jane and Pera Paul Manahera Eden S290.007 & S290.010, Margaret Charles & Marguerita Lazar S291.005 & S291.006, HWH Properties Ltd S295.001 & S295.017, Jason and Margaret Hewlett S296.008 & S296.012, Kurt Bowen S300.001 & S300.002.

New greenfields development generally results in the need for additional infrastructure. This can be both on-site, e.g. stormwater detention ponds, proprietary wastewater disposal systems etc., and off-site, e.g. enlarged water supply, stormwater or wastewater pipes to include extra capacity for proposed development as a result of growth. Typically, the additional on-site infrastructure will be funded by the developer, and off-site infrastructure funded through a combination of levies from landowners through development contributions or private development agreements, and rates. The general principles for funding are that:

- landowners pay for the additional infrastructure required on-site as a result of their development;
- landowners and/or Council pay for off-site infrastructure with:
 - the relevant proportion needed as a result of growth funded by the landowner; and
 - any infrastructure needed for service level improvements funded by the Council through rates.

N.B. Traditionally much of Dunedin's growth has not required additional off-site infrastructure because of existing additional capacity in Council's reticulated networks over and above what is required to service permitted development.

The Council's reticulated networks are subject to maintenance and renewal programmes to resolve known issues e.g. stormwater infiltration into wastewater networks, and replacement of damaged or inefficient pipes. The renewals programme can result in increased pipe sizes or other resolution of issues that can provide for growth. In some cases the DCC has applied methods to hold levels of development at current zoning until which time these upgrades are completed at which time the new zoning in the plan would be released (for example the RTZ overlay)

Specific concerns have been raised with respect to stormwater management, and whether similar to wastewater, it is the responsibility of the DCC to respond to growth by enabling additional stormwater from sites to be discharged into its network rather to require developers to maintain stormwater discharges to existing levels. In some locations where the capacity and potential effects of increased discharges is well known this might be possible but there are large parts of the stormwater network where that capacity and the potential effects of increased stormwater peak discharges is poorly understood and therefore a precautionary approach is taken. It may be that overtime this approach can change as the modelling and understanding of the stormwater network is improved, including the potential effects of climate change, and more upgrades are completed but at this stage the precautionary approach is warranted. I note however suggestions made by Ms McEwan around a simplified approach for addressing effects on stormwater for small infill subdivisions suggested later in the report.

The discussion below addresses key issues that submitters have raised regarding funding.

Issue 1: Development contributions and rates pay for upgrades - asking developers to also provide infrastructure is "double-dipping"

Various submissions stated that Council has a development contributions policy and a rating program that generates income as new residential sites are created making it inappropriate for network infrastructure upgrades to be imposed as conditions of development, as it is a form of 'double-dipping'.

Development contributions are an appropriate funding source for additional off-site infrastructure that has been identified based on anticipated growth and development. Development contributions are not collected for any on-site infrastructure that may be required or any projects that have not been anticipated. Rates are generally used for the maintenance or renewal of infrastructure. Once new infrastructure is established and vested in Council it is appropriate for the maintenance and renewal of infrastructure to be funded through rates.

Based on the explanation of funding provided above, I do not understand what aspects of infrastructure costs are perceived to be 'double-dipping'.

Issue 2: Council should access government funding for 3 waters

Some submissions have suggested that Council has access to government funding, and this should be used as a priority to resolve existing infrastructure issues.

Mr Jared Oliver, DCC 3 Waters, has advised that funding obtained from such sources to date is minor relative to 3 Waters capital budgets and has been used to target priority projects, only some of which have a growth component. The impact of this funding on resolving existing infrastructure network constraints is minor.

Issue 3: Providing a “clawback mechanism” for multiple landowner development areas

Several submitters² raised issues about how the cost of providing additional infrastructure can be fairly split between all landowners who benefit from them (e.g. submissions on Change F2-6 in Section 4.2.2, and on Change F2-2 in Section 4.3.2). Concerns particularly regarded when the first landowner in a development area must install infrastructure to be able to undertake development. A suggestion was made that Council pay the first developer for the share of costs that arise from providing benefits to the other landowners who would later rely on the infrastructure the first developer had installed. A “clawback mechanism” is referring to Council then retrieving those costs from the other landowners at a later date.

The DCC can only charge development contributions for projects that are planned and approved through the 10-year plan and incorporated into the development contributions policy. The inclusion of projects on private land to service a specific development can pose significant financial risk for DCC and may not be scheduled in time to suit a developer. Private development agreements between landowners and the Council can be entered into on a case-by-case basis to ensure there is a fair, equitable, and proportionate portion of the costs of capital expenditure to service growth.

Issue 4: Requirements of the NPS-UD regarding infrastructure provision

Various submissions asserted that the NPS-UD requires the provision of adequate infrastructure by DCC to enable residential capacity and that it is inappropriate to pass this responsibility to developers by requiring additional infrastructure as a part of the development process.

I wish to clarify what the NPS-UD requires in terms of Council providing infrastructure servicing for housing capacity, as the situation is more nuanced than indicated by submitters:

- Policy 2 of the NPS-UD requires that local authorities, at all times, provide at least sufficient development capacity to meet expected demand for housing over the short term, medium term, and long term.
- Section 3.2(2) of the NPS-UD sets out that, in order to be sufficient to meet expected demand for housing, the development capacity must be infrastructure-ready (amongst other requirements).
- The meaning of ‘infrastructure-ready’ is set out in Section 3.4(3) of the NPS-UD. In short, this only requires adequate development infrastructure to be in place (“existing”) to meet short term (within the next 3 years) demand for housing capacity. For the medium term (between 3 and 10 years), adequate development infrastructure can simply be identified in a long-term plan (but not yet provided).

² Sweep Consultancy Limited on behalf of their clients: Bill Morrison (S13.009), Roger and Janine Southby (S191.008), Ken Close (S193.007), Ron Balchin (S204.008), Gladstone Family Trust (S219.014), Ed Stewardson (S223.008), Wendy Campbell, Meats of New Zealand Limited (S232.007), Willowcroft Limited (S238.003), Dunedin City Baptist Church (S239.004), Invermark Investments Ltd. (S240.008), Grant Motion (S241.008), DDS Properties (2008) Limited (S242.007), Cole Bennetts (S247.008), Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd (S249.013), Outram Developments Limited (S305.008), Peter Doherty (S307.009) and CC Otago Limited (S308.008).

- As such, it is possible for the 2GP to contain land that is zoned for residential activity for which adequate 3 waters network infrastructure is not yet in place, provided that there is enough that is in place to meet demand for the next 3 years as a minimum. The NPS-UD does not require Council to immediately provide the required infrastructure upgrades to service a particular area of residential zoned land upon demand from the landowner.
- Therefore, where adequate infrastructure is not yet in place due to project scheduling limitations, it would be reasonable for a landowner to discuss with DCC any options available to bring forward the required work to support a development, including by taking on the required work themselves where the DCC agrees to this being acceptable in the circumstances, and/or by undertaking on-site works that mitigate the effects on network infrastructure. These approaches are provided for in the proposed changes to 3 waters infrastructure provisions contained in Variation 2. Without these approaches, much less land would be able to be rezoned at this time.

I also note that beyond the NPS-UD, the obligations on Council to provide water supply connections are slightly different than that for other 'waters'. This is because water supply connections are partly governed by the Water Bylaw 2011. A summary of how the Water Bylaw 2011 works has been provided in correspondence from Ms Jacinda Baker, DCC 3 Waters, and in summary this states that:

- Within the water scheme boundaries (as set out in the Bylaw), residential activities are entitled to connect to the network (via the ordinary application process), but non-residential activities must go through an approval process for an extraordinary connection; and
- Outside the water supply boundary, residential activities must go through an approval process for an extraordinary connection and non-residential activities are generally not permitted to connect.

However, these requirements work in tandem with the 2GP, which sets rules regarding where residential activities can occur and to what density. For activities that do not comply with the Plan provisions, a resource consent process must be gone through to lawfully establish the proposed development prior to the obligation to provide water supply connections having effect.

Issue 5: Council should provide infrastructure upgrades upon a developer lodging a "notice of development intent"

Following on from the NPS-UD issue, various submitters represented by Paterson Pitts Group requested a requirement that Council provide the infrastructure upgrades to support a development once a "notice of development intent" is lodged by a landowner (see submission points in Section 4.2.1).

Mr Jared Oliver, DCC 3 Waters, has advised that:

- It is not feasible for DCC to install infrastructure on demand, as suggested by submitters (Paterson Pitts Group duplicates), because long-term strategic planning is required to determine infrastructure programmes, secure funding, and deliver projects; and
- DCC reserves the discretion to enter into a development agreement with a developer, for example when a developer is ready to develop their site, but the DCC 3 waters infrastructure required will not be in place in time, and/or where on-site management may provide acceptable solutions to manage 3 waters issues. Such agreements indicate any cost sharing arrangements and any effect on the development contributions payable. Less formal agreements may also be entered into in some cases and included as conditions of resource consent

Changes proposed to Section 9 policies as part of Variation 2 (e.g. Policy 9.2.1.1 and new Policy 9.2.1.1A), provide for agreements between developers and Council to be reached when infrastructure upgrades are not yet complete, to enable a development to proceed. In my view, this is an improvement over the status quo, which does not explicitly provide this option to developers and requires that activities "will not exceed the current or planned capacity of that infrastructure". I note that development agreements are already being used to enable residential rezoning appeals on the 2GP to be resolved.

Recommendation

I recommend that no substantive changes be made to the Plan in response to submissions. However, inclusion of a 'note to plan user' to outline how funding mechanisms work, including the option of private development agreements, is recommended to provide clarity.

Separate work by DCC 3 Waters to provide guidance on the approach to equitably distributing the costs associated with private development, based on the level of public and private benefit would be beneficial but this would appropriately sit outside the Plan.

Recommended amendments:

Add Note to Plan User as follows:

1. The DCC requires those persons undertaking development to pay a fair, equitable, and proportionate portion of the costs of capital expenditure to service growth.
2. The DCC's contribution to any off-site upgrades or delivery of higher specification for infrastructure will be based on an assessment of the public vs private benefit of the upgrade. This means that in principle the landowner(s) of the structure plan mapped area and/or new development mapped area will only be required to pay that portion of the costs of the upgrades that is necessary to address the effects of or needs of their proposed development area. Network infrastructure growth costs will generally be funded through development contribution charges as set out in the DCC's Development Contributions Policy (10-year Plan 2021-2031), which details the charges on a per equivalent household unit by area of benefit basis.
3. Where the results of an Integrated Transportation Assessment required by Rule XXX, a stormwater or wastewater management plan, or an assessment of water supply requirements demonstrate the need for either:
 - a. Infrastructure upgrades outside of the site, or
 - b. Infrastructure built to a higher specification because of the need to provide for new growth areas or improve level of service for existing areas.The responsibility and funding for these upgrades will be negotiated between all landowners and the DCC. Where necessary, the DCC will appoint an independent facilitator or mediator to assist in these negotiations.
4. It is further noted that the completion of these upgrades prior to s224 certification or at a certain point in time agreed to in a condition of consent may be required.

4.1.3 Submissions on all 3 waters changes/NDMA changes

Submission point	Submitter Name	Support/Oppose	Summary of Submission
Submissions on all 3 waters changes			
S202.002 S220.001 S263.008	Duplicate submissions from Terramark Limited and on behalf of their clients	Add a change	Add provisions to enable 1. That Council upgrade the network to enable the proposed development permitted under Variation 2, and 2. That infrastructural upgrades are funded by either development contributions and rates, and 3. That network upgrades are not a condition of development.
S293.008 S273.009 S283.011 S298.007 S302.007	Duplicate submissions from Paterson Pitts Group on behalf of their clients	Reject the change	Remove changes on infrastructure matters. This point applies to all proposed changes to 3 waters provisions.
S76.008 S79.002 S150.002 S206.008 S203.020 S230.003 S260.011 S264.019 S270.002 S282.007 S283.008 S286.018 S290.007 S291.005 S295.001 S296.008 S300.001	Duplicate submissions from Paterson Pitts Group and Paterson Pitts Group on behalf of their clients.	Reject the change	Remove the infrastructure controls from all new development and subdivision activities until such time as Council's knowledge in respect of the area of constraint is complete.
S76.026 S79.022 S150.023 S203.018 S206.031 S230.017 S260.012	Duplicate submissions from Paterson Pitts Group and on behalf of their clients.	Reject the change	Remove the infrastructure controls from all new development and subdivision activities, except where the infrastructure relates to new greenfields land (and until such time as Council's knowledge in respect of the area of constraint is complete).

S264.018 S270.024 S282.029 S283.012 S286.019 S290.010 S291.006 S295.017 S296.012 S300.025			
Submissions on all NDMA changes but which only discuss 3 waters aspects			
S76.002 S273.008 S283.010 S293.006 S298.006 S302.006	Duplicate submissions from Paterson Pitts Group and on behalf of their clients.	Reject the change	Remove the new development mapped area provisions.
S220.003	Terramark Limited	If the change is not rejected, amend	Amend the New Development Mapped Area provisions based on Council's full understanding of the infrastructural model and constraints (complete infrastructure modelling at Council's cost).
<u>Submissions received</u> 42 original submissions were received on 3 waters infrastructure provisions generally, with 3 seeking changes and the remainder opposing various types of 3 waters infrastructure provision changes. All these submissions were duplicate-type submissions lodged by surveying firms Terramark Limited and Paterson Pitts Group on behalf of themselves and various clients. In addition, 7 original submissions were received on the new development mapped area (NDMA) provisions relevant to 3 waters. Six of these submissions were duplicate-type submissions lodged by Paterson Pitts Group on behalf of their clients in opposition to the changes. One submission was from Terramark Limited seeking amendments. The overall reasons for both groups of submissions were similar and are summarised below. I note that the aspects of the submissions relating to 3 waters infrastructure funding are dealt with separately in Section 4.1.2 above and are not considered further here. Reasons for the opposition raised in submissions lodged by Paterson Pitts Group included: • concern that there has been incomplete research undertaken by DCC 3 Waters, particularly stormwater modelling, resulting in a knowledge gap and a precautionary approach that might require infrastructure being installed where it may not be required; • imposition of extra requirements on developers will adversely impact the feasibility of development; • that the NPS-UD requires the provision of adequate infrastructure by DCC to enable residential capacity and it is inappropriate to pass this responsibility to developers; • that Council has a development contributions policy and a rating program that generates income as new residential sites are created making it inappropriate for network infrastructure upgrades to be imposed as conditions of development, as it is a form of 'double-dipping'; and			

- Council has access to government funding, and this should be used as a priority to resolve existing infrastructure issues.

(Duplicate submissions by Paterson Pitts Group on behalf of: Michael David Byck & Nicola Andrea O'Brien S293.006 & S293.008, Mark and Jacqui Taylor S273.008 & S273.009, Max Hope Trust S283.010 & S283.011, Bill Hamilton S298.006 & S298.007, Alan David and David Eric Geeves & Nicola Jane Algie S302.006 & S302.007; Christopher Connor & Tina Prendergast S76.002, S76.008 & S76.026, Glenelg Street Trust Board Incorporated S79.002 & S79.022, Giler and Katherine Wynn-Williams S150.002 & S150.023, Paterson Pitts Group S206.008 & S206.031, Tom and Loretta Richardson S203.020 & S203.018, BA Building Ltd S230.003 & S230.017, Lloyd Morshuis (Morclark Developments) S260.011 & S260.012, D N Innovations Ltd S264.019 & S264.018, Doug Hall S270.002 & S270.024, Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch S282.007 & S282.029, Max Hope Trust S283.008 & S283.012, Karen Knudson & Ross Brown S286.018 & S286.019, Victoria Jane and Pera Paul Manahera Eden S290.007 & S290.010, Margaret Charles & Marguerita Lazar S291.005 & S291.006, HWH Properties Ltd S295.001 & S295.017, Jason and Margaret Hewlett S296.008 & S296.012, Kurt Bowen S300.001 & S300.025).

Reasons for the changes sought in submissions lodged by Terramark Limited included:

- that Council has a development contributions policy and a rating program that generates income as new residential sites are created making it inappropriate for network infrastructure upgrades to be imposed as conditions of development, as it is a form of 'double-dipping'.

(Duplicate submissions from Terramark Limited and Terramark Limited on behalf of their clients: K and L Accommodation Limited S202.002, Terramark Limited S220.001 & S220.003, GTJM Property Limited (Joe Morrison and Gill Thomas) S263.008).

Further submissions were received from:

- Elizabeth McColl (FS86.2) in opposition to S202.002 (K and L Accommodation Limited). Their further submission primarily related to concerns over residential rezoning also sought by the submitter at Rejected Site 171 (18 Noyana Road and 3 Brickhill Road). However, they also state that they are concerned that costs for infrastructure may be carried by ratepayers where they believe this should be borne by the developer. They are also concerned about stormwater effects arising from potential development (the aspects of this further submission related to the rezoning and its potential effects will be addressed at the fourth hearing on greenfield sites); and
- Otago Regional Council (FS184) in opposition to all duplicate submissions from Paterson Pitts Group on behalf of their clients. They seek that the infrastructure provisions should be retained and amended in accordance with ORC's primary submission and because comprehensive infrastructure controls are essential if subdivision and development are to proceed and not result in any adverse effects.
- ORC (FS184) is also opposed to all submissions seeking removal or amendment of the NDMA changes because it conflicts with their view on the stormwater management provisions.

Expert evidence sought

In order to further assess the matters raised in these submissions (other than those relating to infrastructure funding), I sought expert evidence from Mr Jared Oliver and Ms Jacinda Baker, DCC 3 Waters. Comments from their written evidence are summarised as follows.

Information available on stormwater catchments and obligation to manage effects

- DCC has Catchment Management Plans for stormwater in some areas of the city but has not yet prepared these for the entire city and this means DCC has been unable to develop rules targeted to each stormwater catchment as part of Variation 2;
- Work to model stormwater in all catchments is time consuming and expensive, and DCC anticipates that it will be approximately 3 years before the assessment process is completed for all catchments;
- National and regional legislation changes are placing more emphasis on protection of the environment and management of contaminants (including sediment). This affects stormwater discharges to natural waterways from both a quality and quantity perspective and DCC needs to set rules to manage this;

- Upgrades to DCC stormwater infrastructure may not be able to resolve the anticipated stormwater effects of development alone because stormwater also flows through private property (where DCC does not own or control the assets);
- The alternative to requiring developers to manage adverse stormwater effects is to delay rezoning of new residential areas until the relevant catchment models are complete, but this will not provide for growth in the meantime.

Recommendation

I have considered all submissions received, the reasons for those submissions, and the evidence provided by Mr Oliver and Ms Baker. Overall, I recommend that the submissions be rejected, and the proposed 3 waters infrastructure provisions be progressed as notified with any amendments outlined in the following sections of this report in response to other submission points.

I accept the evidence of Mr Oliver and Ms Baker that, to facilitate the growth that will be enabled through Variation 2 greenfield rezoning proposals, it is necessary to require developers to assess and design their developments to ensure that adverse effects from 3 waters are managed. This is particularly the case for stormwater because of incomplete information about the state of the network and its ability to absorb changes in flows, and partly because programmed infrastructure upgrades to support growth may not have been completed at the time a development is proposed. Overall, if there are no mechanisms in the Plan to enable the 3 waters effects of development to be appropriately managed through the development process, many of the greenfield rezoning areas proposed through Variation 2 would no longer be able to be supported in terms of achieving Objective 2.7.1 on Efficient public infrastructure, and this would have significant cumulative implications for achieving Objective 2.6.2 on Adequate urban land supply.

Recommended amendments:

None. See also the recommendations for site-specific mapping of NDMA in Section 4.6 below.

4.2 General Changes to 3 waters provisions

4.2.1 Change F1-2 – General policies on water supply and wastewater

32. Change F1-2 reviewed 3 waters Policy 9.2.1.1, Policy 9.2.1.4 and Policy 9.2.1.6, principally regarding activities with respect to water supply or wastewater servicing.

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS9.013	Marita Ansin-Johnson	Accept the change	Retain Change F1-2 (Review of 3 waters Policy 9.2.1.1, Policy 9.2.1.4 and Policy 9.2.1.6).
OS76.012 OS79.006 OS150.005 OS203.002 OS206.014 OS230.005 OS264.002 OS270.006 OS282.013 OS291.010 OS295.004 OS300.007	All submissions on Policies 9.2.1.1.X and 9.2.1.1A lodged by Paterson Pitts Group and by Paterson Pitts Group on behalf of their clients	If the change is not rejected, amend	Remove Policies 9.2.1.1.X and 9.2.1.1A relating to land use or subdivision activities within or outside the wastewater serviced areas or amend the provisions to require Council to provide adequate network infrastructure following a notice of development intent from the landowner, and any such further, alternative, or consequential relief as may be necessary to fully give effect to this submission.
OS220.005	Terramark Limited	Reject the change	Remove Policy 9.2.1.1A as notified.
OS263.004	GTJM Property Limited (Joe Morrison and Gill Thomas)	Reject the change	Remove Policy 9.2.1.1A.
OS189.014	Ryman Healthcare limited	Accept the change with amendments	Amend Policy 9.2.1.1A, to clarify that agreement from the Council (in 9.2.1.1A(c)) shall not be unreasonably withheld.
OS205.014	Retirement Villages Association of New Zealand	Accept the change with amendments	Amend Policy 9.2.1.1A, to clarify that agreement from the Council (in 9.2.1.1A(c)) shall not be unreasonably withheld.
OS189.013	Ryman Healthcare limited	Accept the change	Retain Policy 9.2.1.1 as notified.
OS205.013	Retirement Villages Association of New Zealand	Accept the change	Retain Policy 9.2.1.1 as notified.

OS76.019 OS79.013 OS150.013 OS203.016 OS206.021 OS230.021 OS264.009 OS270.013 OS282.020 OS286.012 OS291.017 OS295.011 OS300.014	All submissions on 9.2.1.4 and 9.2.1.4A lodged by Paterson Pitts and by Paterson Pitts on behalf of their clients	Reject the change	Remove Policy 9.2.1.4, Policy 9.2.1.4A and any such further, alternative, or consequential relief as may be necessary to fully give effect to this submission such as Rules 9.5.3, 9.6.2, 9.7.4.
OS189.016	Ryman Healthcare limited	Accept the change with amendments	Amend Policy 9.2.1.4A, to clarify that agreement from the Council (in 9.2.1.4A(b)) shall not be unreasonably withheld.
OS205.016	Retirement Villages Association of New Zealand	Accept the change with amendments	Amend Policy 9.2.1.4A, to clarify that agreement from the Council (in 9.2.1.4A(b)) shall not be unreasonably withheld.
OS189.015	Ryman Healthcare limited	Accept the change	Retain Policy 9.2.1.4 as notified.
OS205.015	Retirement Villages Association of New Zealand	Accept the change	Retain Policy 9.2.1.4 as notified.
OS189.017	Ryman Healthcare limited	Accept the change	Retain the deletion of Policy 9.2.1.6.
OS205.017	Retirement Villages Association of New Zealand	Accept the change	Retain the deletion of Policy 9.2.1.6.
OS187.020	Dunedin City Council	Accept the change with amendments	Amend Rule 9.5.3.3.a.iii as follows, and such further, alternative, or consequential relief as may be necessary to fully give effect to this submission: "In determining whether Policy 9.2.1.6 9.2.1.1A is achieved, Council will consider the cumulative effects of the proposed development and permitted development that is likely to arise in the future."
OS189.018	Ryman Healthcare limited	Accept the change with amendments	Amend the new assessment rule 9.6.2.Z to replace the text "effects on efficiency and affordability of infrastructure" with "effects on the capacity of infrastructure".
OS205.018	Retirement Villages Association of New Zealand	Accept the change with amendments	Amend the new assessment rule 9.6.2.Z to replace the text "effects on efficiency and affordability of infrastructure" with "effects on the capacity of infrastructure".

Background

Change F1-2 (Review of 3 Waters Policy 9.2.1.1, Policy 9.2.1.4 and Policy 9.2.1.6) is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
The purpose of this proposal is to review and clarify the 3 waters policy framework in Policy 9.2.1.1, Policy 9.2.1.4 and Policy 9.2.1.6.	Amends Policy 9.2.1.1 and Policy 9.2.1.4 so they are split into separate policies for each 'water' and depending on whether the area is serviced with public infrastructure or not. It also provides explicit options for mitigation to better enable the policies to be met and deletes Policy 9.2.1.6 to rely on the new policy for serviced wastewater areas.	• Amend Policy 9.2.1.1 • Add Policy 9.2.1.1A • Replace Policy 9.2.1.4 • Add Policy 9.2.1.4A • Delete Policy 9.2.1.6 • Consequential changes to add or amend policy references in relevant assessment rules (rules 9.4.1.1, 9.5.3.3, 9.5.3.X, 9.5.3.AA, 9.6.2.Z, 9.6.2.2, 9.7.4.2, 9.7.4.3, 9.7.4.4, 9.8.2.2, and 9.8.2.5) • Add new Assessment Rule 9.6.2.Z • Delete Assessment Rule 9.6.2.4

Submissions received

41 original submissions were received on the various amendments proposed as part of Change F1-2, with 7 in support, 19 seeking amendments and 15 in opposition. Most submissions in opposition and seeking amendments were prepared by local surveying firm, Paterson Pitts and planning consultancy Terramark, on behalf of submitters and seek the same changes. One overall submission in support of Change F1-2 was received from Marita Ansin-Johnson (S9.013) but reasons for this support were not provided. A further submission in opposition to this point was received from Otago Regional Council (FS184.252) because they are of the view that adequate infrastructure (including for wastewater and stormwater) must be provided to avoid adverse effects of subdivision use and development.

Otago Regional Council also further submitted on most other original submission points set out in the table above. Details of submissions and further submissions, and an assessment of submissions, are set out under subheadings below according to the provisions in question.

Policies 9.2.1.1 and 9.2.1.1A (unserved and served wastewater areas)

Proposed Policy 9.2.1.1 regards land use and subdivision activities outside a wastewater serviced area, while proposed Policy 9.2.1.1A regards land use and subdivisions activities within a wastewater serviced area.

The proposed wording of Policy 9.2.1.1 as notified (numbering to be corrected at time of decision) is:

Only allow land use or subdivision activities that may result in land use or development activities outside the wastewater serviced area, where:

- b. it will not lead to future pressure for unplanned expansion of wastewater public infrastructure; or*
- X. an unplanned extension (and any necessary upgrade) to the public wastewater network to provide for the activities can be implemented prior to development with agreement from the DCC.*

The proposed wording of Policy 9.2.1.1A as notified is:

Only allow land use or subdivision activities that may result in land use or development activities in a wastewater serviced area where:

- a. it will not exceed the current or planned capacity of that infrastructure at the time of development or compromise its ability to service any permitted activities; or*

- b. *for controlled and restricted discretionary land use activities, communal on-site wastewater detention infrastructure can be integrated into the public wastewater network prior to development in a way that meets DCC's requirements; or*
- c. *an unplanned upgrade to the public wastewater network that addresses any capacity constraints can be implemented prior to development with agreement from the DCC.*

Submissions received

15 duplicate submissions were lodged by Paterson Pitts Group on behalf of various submitters, that sought that these policies be removed or amended, as they consider that it is Council's responsibility to provide adequate wastewater infrastructure prior to development occurring, in accordance with the NPS-UD. They also questioned the possibility of including a requirement for Council to provide the required infrastructure upgrades to support development once a "notice of development intent" is lodged by a landowner (submitters include S76.01 Christopher Connor & Tina Prendergast, S79.006 Glenelg Street Trust Board Incorporated, S150.005 Giler and Katherine Wynn-Williams, S203.002 Tom and Loretta Richardson, S230.005 BA Building Ltd, S264.002 D N Innovations Ltd, S270.006 Doug Hall, S291.010 Margaret Charles & Marguerita Lazar, S295.004 HWH Properties Ltd, Survey & Spatial NZ Coastal Otago Branch S282.013, Patterson Pitts Group S206.014, and Kurt Bowen S300.007).

Further submissions opposing these points were received from Otago Regional Council (FS184) because they are of the view that adequate infrastructure (including for wastewater and stormwater) must be provided to avoid adverse effects of subdivision use and development.

Two duplicate submissions from Terramark Limited, one on behalf of a submitter GTJM Property Limited (S263.004) and one on behalf of Terramark Limited (S220.005) sought deletion of Policy 9.2.1.1A because they consider it is Council's responsibility to resolve network infrastructure issues prior to development occurring or in conjunction with the developer. Further submissions opposing these points were received from Otago Regional Council (FS184) for the same reasons as above.

Submissions in support of the amendments to Policy 9.2.1.1 were received from Ryman Healthcare Ltd (S189.013) and Retirement Villages Association of NZ (205.013). However, Ryman Healthcare Ltd (S189.014) and Retirement Villages Association of NZ (205.014) sought amendments to Policy 9.2.1.1A to clarify that agreement from the Council (in 9.2.1.1A(c)) shall not be unreasonably withheld. Further submissions which supported S189.013 and S205.013 in part were received from Otago Regional Council (FS184) for the same reasons as above. Otago Regional Council did not express a position in regard to S189.014 and S205.014.

Expert evidence sought

To assist with the assessment of matters raised in these submissions (that do not relate to the timing of infrastructure funding and installation), I sought expert evidence from Mr Jared Oliver and Ms Jacinda Baker, DCC 3 Waters. In summary, they provided the following information:

- DCC would not unreasonably withhold agreement regarding alternative arrangements for developing required infrastructure, but it is noted that the DCC and developer may differ in their view of what is reasonable or not.

Submissions relating to infrastructure funding and the timing of infrastructure installation have already been dealt with in Section 4.1.2 above and are not addressed further here.

Assessment and recommendation

I have considered the submissions and reasons for them, the expert evidence provided, and recommend that Policy 9.1.1.1 and Policy 9.1.1.1A be retained as notified for the reasons set out below.

I note that the proposed policies would not only apply to land use and subdivision of a kind that is anticipated within the applicable zone, but would also apply to non-complying activities, including subdivision that contravenes the density performance standard (e.g. see Rule 9.8.2.2 as notified). The approach will provide greater flexibility to developers to explore options with DCC to bring forward development ahead of DCC's own project plans, where this is appropriate.

I do not consider it necessary to make amendments to Policy 9.2.1.1A to state that Council will not unreasonably withhold agreement to other servicing arrangements. I accept the evidence of Mr Oliver and Ms Baker that in the event that DCC does not agree to a developer's proposed arrangements, this would be for good reason.

Policies 9.2.1.4 and 9.2.1.4A (serviced and unserviced water supply areas)

Proposed Policy 9.2.1.4 regards land use and subdivision activities within a public water supply area, while proposed Policy 9.2.1.4A regards land use and subdivisions activities that are not within a public water supply area.

The proposed wording of Policy 9.2.1.4 as notified is:

Only allow land use or subdivision activities that may result in land use or development activities in an area with public water supply where:

- a. it will not exceed the current or planned capacity of that infrastructure at the time of development or compromise its ability to service any permitted activities; or*
- b. an unplanned upgrade to the public water supply network that addresses any capacity constraints can be implemented prior to development with agreement from the DCC.*

The proposed wording of Policy 9.2.1.4A as notified is:

Only allow land use or subdivision activities that may result in land use or development activities in an area without public water supply where:

- a. it will not lead to future pressure for unplanned expansion of public water supply infrastructure; or*
- b. an unplanned extension (and any necessary upgrade) to the public water supply network to provide for the activities can be implemented prior to development with agreement from the DCC.*

Submissions received

13 duplicate submissions by Paterson Pitts Group on behalf of their clients were received which sought amendments to require that Council provide adequate water supply infrastructure prior to development occurring as they consider that this is a requirement of the NPS-UD and that the timing of any network upgrades must meet development needs (submitters include Survey & Spatial NZ Coastal Otago Branch S282.020, Patterson Pitts Group S206.021, Kurt Bowen S300.014, Tom & Loretta Richardson S203.002, DN Innovations S264.009, HWH Properties Ltd S295.011, Doug Hall S270.013, BA Building Ltd S230.021, Margaret Charles & Marguerita Lazar S291.017, Christopher Connor & Tina Prendergast S76.019, Glenelg St Trust Board Inc S79.013, Giler and Katherine Wynn-Williams S150.013, Karen Knudson & Ross Brown S286.012). Further submissions opposing these points were received from Otago Regional Council (FS184) because they are of the view that adequate infrastructure (including for wastewater and stormwater) must be provided to avoid adverse effects of subdivision use and development.

Submissions in support of the amendments to Policy 9.2.1.4 were received from Ryman Healthcare Ltd (S189.015) and Retirement Villages Association of NZ (205.015). However, Ryman Healthcare Ltd (S189.016) and Retirement Villages Association of NZ (205.016) sought amendments to Policy 9.2.1.4A to clarify that agreement from the Council (in 9.2.1.4A(b)) shall not be unreasonably withheld. Further submissions which supported S189.015 and S205.015 in part were received from Otago Regional Council (FS184) for the same reasons as above. Otago Regional Council did not express a position in regard to S189.016 and S205.016.

Expert evidence sought

Mr Jared Oliver and Ms Jacinda Baker, DCC 3 Waters, provided evidence on the submissions from Ryman Healthcare and Retirement Villages Association of NZ and concluded that DCC would not unreasonably withhold agreement regarding alternative arrangements for developing required infrastructure, but that the DCC and developer may differ in their view of what is reasonable or not.

See Section 4.1.2 above regarding 'Issue 4' on the requirements of the NPS-UD regarding infrastructure provision.

Assessment and recommendation

I recommend that Policy 9.2.1.4 and Policy 9.2.1.4A be retained as notified because I accept the evidence from DCC 3 Waters.

Other changes

Other submissions on Change F1-2 included:

- 2 submissions in support of the deletion of Policy 9.2.1.6 (Retirement Villages Association & Ryman Healthcare S205.017 & S189.017), with no submissions specifically seeking changes to, or removal of, this part of the proposal. I note that this policy is proposed for deletion because the matters are now dealt with in proposed Policy 9.2.1.1A. Further submissions from Otago Regional Council were not received on these points;
- A submission seeking amendment to Rule 9.5.3.3.a.ii, to replace the reference to Policy 9.2.1.6 with reference to Policy 9.2.1.1A as a consequential change that was missed in error (Dunedin City Council, S187.020). A further submission in support of this point was received from Otago Regional Council (FS184.222) because it is important that a cumulative assessment can be made to support whether an unplanned extension to the public wastewater network is appropriate and because an extension of infrastructure must occur prior to any development; and
- 2 submissions seeking amendment to Rule 9.6.2.Z to consider 'effects on the capacity of infrastructure' instead of 'effects on the efficiency and affordability of infrastructure' (Retirement Villages Association & Ryman Healthcare S205.018 and S189.018). Further submissions from Otago Regional Council were not received on these points.

Assessment and Recommendation

I recommend accepting the submission from Dunedin City Council (S197.020) to correct the policy reference in Rule 9.5.3.3.a.ii as a consequential change. I do not recommend any amendments to the matter of discretion in Rule 9.6.2.Z as sought by Retirement Villages Association & Ryman Healthcare (S205.018 and S189.018) because the proposed wording is the standard wording used for matters relevant to Objective 2.7.1 on Efficient public infrastructure and Section 9 of the Plan.

Overall Recommendation

Overall, I recommend that Change F1-2 be retained as notified, except for an amendment to assessment rule 9.5.3.3.a.iii to correct the reference to Policy 9.2.1.1A as a consequential change that was omitted from the notified version in error.

Recommended amendments:

Amend 9.5.3.3.a.iii as follows:

In determining whether Policy ~~9.2.1.6~~ 9.2.1.1A is achieved, Council will consider the cumulative effects of the proposed development and permitted development that is likely to arise in the future.

4.2.2 Change F2-6 (NDMA - Provision of 3 waters connections to adjacent land)

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS76.017 OS79.011 OS150.011 OS203.007 OS206.019 OS230.009 OS264.007 OS270.011 OS282.018 OS286.010 OS291.016 OS295.009 OS300.012	All submissions on Policy 9.2.1.AA lodged by Paterson Pitts Group and by Paterson Pitts Group on behalf of their clients	Accept the change with amendments	Amend Policy 9.2.1.AA to introduce a 'developer contributions clawback' arrangement to ensure that the first developer is not subject to a large proportion of the infrastructure costs and any such further, alternative, or consequential relief as may be necessary to fully give effect to this submission.
OS219.015 OS241.009 OS13.010 OS191.009 OS193.008 OS204.009 OS223.009 OS228.010 OS232.008 OS238.002 OS239.003 OS240.009 OS242.008 OS247.009 OS249.014 OS305.009 OS307.010 OS308.009	All submissions on Policy 9.2.1.AA lodged by Sweep Consultancy Ltd on behalf of their clients	Accept the change with amendments	Amend the new development mapped area policies as follows: 1. Amend Policy 9.2.1.AA as follows: 'Only allow subdivision in a new development mapped area where any new public or private 3-waters infrastructure is designed to connect to, and provide capacity for, future urban development within the subject new development mapped area on adjoining or nearby sites that are zoned for urban development where necessary'; AND 2. Amend Rule 9.5.3.Z.a.iii as follows: 'Only allow subdivision in a new development mapped area where any new public or private 3-waters infrastructure is designed to connect to and provide capacity for, future urban development within the subject new development mapped area on adjoining or nearby sites that are zoned for urban development, where necessary (Policy 9.2.1.AA)'; AND 3. Amend Rule 9.6.2.X.a.iii as follows: 'Only allow subdivision in a new development mapped area where any new public or private 3-waters infrastructure is designed to connect to, and provide capacity for future urban development within the subject new development mapped area on adjoining or nearby sites that are zoned for urban development, where necessary (Policy 9.2.1.AA)' and such further, alternative, or consequential relief as may be necessary to fully give effect to this submission.
OS9.017	Marita Ansin-Johnson	Accept the change	Retain Change F2-6 (Provision of 3 waters connections to adjacent land).

Background

Change F2-6 (NDMA- Provision of 3 waters connections to adjacent land) is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
The purpose of the proposal is to consider whether and how Policy 2.7.1.2.d should be implemented within the rest of the Plan provisions, as it is currently not implemented.	Adds a new policy (Policy 9.2.1.AA) to assist the assessment of subdivision in a new development mapped area (NDMA) with regard to how new 3 waters infrastructure will provide for connections to adjoining subdivision areas where necessary to support future urban expansion.	• Add new Policy 9.2.1.AA • Refer to Policy 9.2.1.AA in new assessment Rule 9.5.3.Z • Refer to Policy 9.2.1.AA in new Assessment Rule 9.6.2.X

I note that Policy 2.7.1.2.d states:

Ensure areas of new urban development provide for public infrastructure networks that represent the least possible long term cost to the public through:

...

d. assessment rules that require consideration of additional public infrastructure capacity to provide for future urban development on adjoining or nearby sites.

This policy is currently not implemented in the 2GP but Change F2-6 seeks to rectify this gap.

Submissions received

32 original submissions were received on Change F2-6 with 1 in support of the changes and 31 seeking amendments. All submissions seeking amendments were prepared by planning consultant Emma Peters from Sweep Consultancy Ltd and local surveying firm Paterson Pitts, on behalf of the submitters.

Reasons for support by Marita Ansin-Johnson (S9.017) were not stated. A further submission in support was received from Otago Regional Council (FS184.288) because adequate infrastructure (including for wastewater and stormwater) must be provided to avoid adverse effects of subdivision use and development.

13 original duplicate submissions from Paterson Pitts Group were received which supported Policy 9.2.1.AA but sought changes to prevent the first landowner incurring significant infrastructure costs, which then benefit adjoining landowners. The submissions also make the point that it is extremely difficult to get agreement on infrastructure costs between two or more private developers. The submitters request that Council consider whether a 'development contributions clawback' arrangement could be an effective method of enabling development where the first developer would otherwise be subject to a large proportion of the infrastructure costs.

(Paterson Pitts Group and Paterson Pitts Group on behalf of their clients: Christopher Connor & Tina Prendergast S76.017, Glenelg Street Trust Board Incorporated S79.011, Giler and Katherine Wynn-Williams S150.011, Tom and Loretta Richardson S203.007, Paterson Pitts Group S206.019, BA Building Ltd S230.009, D N Innovations Ltd S264.007, Doug Hall S270.011, Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch S282.018, Karen Knudson & Ross Brown S286.010, Margaret Charles & Marguerita Lazar S291.016, HWH Properties Ltd S295.009, Kurt Bowen S300.012)

Further submissions in partial opposition to each of these points were received from Otago Regional Council (FS184) because adequate infrastructure (including for wastewater and stormwater) must be provided to avoid adverse effects of subdivision use and development.

18 original duplicate submissions from Emma Peters of Sweep Consultancy were received which sought specific changes to Policy 9.2.1.AA and consequential changes to Rule 9.5.3.Z.a.iii, 9.6.2.X.a.iii remove the wording "...on adjoining or nearby sites that are zoned for urban development, where necessary". This is sought to limit the extent of Policy

9.2.1.AA to provide connections and capacity for infrastructure within the New Development Mapped area only (rather than adjoining or nearby sites that are zoned for urban development).

(Duplicate submissions by Sweep Consultancy Limited on behalf of their clients Gladstone Family Trust S219.015, Grant Motion S241.009, Bill Morrison S13.010, Roger and Janine Southby S191.009, Ken Close S193.008, Ron Balchin S204.009, Ed Stewardson S223.009, Wendy Campbell S228.010, Meats of New Zealand Limited S232.008, Willowcroft Limited S238.002, Dunedin City Baptist Church S239.003, Invermark Investments Ltd S240.009, DDS Properties (2008) Limited S242.008, Cole Bennetts S247.009, Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd S249.014, Outram Developments Limited S305.009, Peter Doherty S307.010 and CC Otago Limited S308.009).

Further submissions in opposition to each of these points were received from Otago Regional Council (FS184) because adequate infrastructure (including for wastewater and stormwater) must be provided to avoid adverse effects of subdivision use and development. In addition, further submissions were received on selected submission points that appear to relate primarily to opposition to rezoning proposals put forward by the original submitters. Concerns regarding rezoning proposals will be addressed in the next report and hearing on greenfield rezoning.

Expert evidence sought

See Section 4.1.2 above regarding 'Issue 3' on the "clawback mechanism".

Recommendation

I recommend that Change F2-6 be retained as notified.

Overall, and as discussed in Section 4.1.2 on infrastructure funding, I consider that it is inappropriate to include funding mechanisms for infrastructure as part of the Plan. Ultimately, the proposed policy needs to ensure that the relevant objectives of the Plan can be achieved. In this case, Objective 9.2.1 is about maintaining or enhancing the efficiency and affordability of 3 waters public infrastructure. I am of the view that the proposal for Change F2-6 will assist in better achieving this objective. Discussions around the appropriate allocation of costs can be had between developers and DCC 3 Waters at the time of development and mechanisms such as private development agreements could be used where necessary.

Recommended Amendments:

None.

4.2.3 Change F5 (3-waters management for visitor accommodation)

Background

Change F5 is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
The purpose of this proposal is to review the plan provisions with respect to visitor accommodation in the residential zones and its potential effects on 3 waters infrastructure. The proposal specifically considers whether these issues are best managed via the performance standard for density (Rule 15.5.2) or through an assessment matter.	Amends how 3 waters effects are managed for visitor accommodation in the residential zones by adding a new matter of discretion for 3 waters infrastructure and removing application of the density performance standard (other than for where visitor accommodation is a permitted activity)	• Add new Assessment Rule 9.6.2.Z • Amend Rule 15.3.3.22 • Amend Rule 15.5.2 Density • Amend Assessment Rule 15.11.2.7

Submissions received

No submissions were received specifically on Change F5. However, broad submissions on all changes to 3 waters provisions, as outlined in Section 4.1.3 above, are relevant to this change and so the amendments cannot be deemed operative.

Recommendation

I consider that the broad submissions received on changes to 3 waters provisions do not result in a need for amendments to Change F5. Therefore, I recommend that it be retained as notified.

Recommended amendments:

None.

4.3 Stormwater Package

33. The changes included in this section regard stormwater management in a range of contexts. The collective purpose of these proposals is to improve the provisions in the Plan that ensure any actual or potential adverse effects of changes to stormwater arising from development are appropriately managed. This includes managing effects on both private and public stormwater systems and where stormwater may directly or indirectly lead to flood hazards elsewhere, including by considering how change in land use or subdivision may lead to development that creates stormwater effects.

4.3.1 Broad submission from ORC

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS271.001	Otago Regional Council	Add a change	Amend the stormwater package to contain the following key elements: 1. Where a connection is available to DCC's stormwater network, that connection must be used; 2. Where a connection is not available, then, subdivision, use and development should not proceed without a stormwater management plan being approved through a resource consent process; 3. At a minimum, a restricted discretionary activity status should apply; 4. ORC should be recognised and treated as an affected party on any such consent application; 5. Implementation of the plan must be a condition of the consent; 6. The plan must be prepared by a suitably qualified chartered engineer with qualifications and experience in hydrology, hydraulics, and stormwater management, design and construction; 7. The objective of the plan must be to ensure there is no change in hydrological characteristics of the site; 8. There must be no adverse effect on people, property, river levels and flows, land drainage schemes and flood protection schemes; 9. The plan must address existing flow paths and on-site storage, whether natural or otherwise; 10. The plan must provide for all stormwater from impermeable or semi-impermeable surfaces including roads, driveways, parks, access lots and the like; 11. The plan must ensure that there is no change in the hydrological characteristics of the site as a result of subdivision, use and development; 12. The plan must expressly anticipate and provide for climate change; 13. Where ORC assets constitute, directly or indirectly, part of the receiving environment, the plan must ensure that there is no adverse effect on their capacity or the effectiveness and efficiency of their operation; 14. There must be an ability to impose conditions to ensure the plan is implemented before subdivision, development or change of use; 15. The stormwater assets must vest in the DCC to provide an ongoing assurance of maintenance and effective operation; 16. The system must ensure good water quality; and 17. The plan must provide for the contingency that the system fails to achieve its objective of ensuring there is no change in the hydrological characteristics of the site.

Submissions received

The submission point from Otago Regional Council (S271.001) sets out the broad outcomes that ORC is seeking from amendments to the stormwater package. These outcomes are also reflected in the specific submissions ORC has made on each of the changes and provisions within the stormwater package, which are addressed in the following sections.

Recommendation

I recommend that the stormwater package of changes be retained as notified, except for the amendments recommended in each of the following sections on the specific proposals.

I have considered ORC's above broad submission point in making the recommendations below.

Recommended amendments:

As set out in sections 4.3.2 to 4.3.9 below.

Change F2-1 (Performance standard for connections to stormwater)

Submission point	Submitter Name	Support/Oppose/Seek Amendment	Summary of Submission
OS271.006	Otago Regional Council	Reject the change	Amend Change F2-1 (Performance standard for connections to stormwater) to require connections to DCC's stormwater network, if available.
OS194.006	Barry James Douglas	Accept the change	Retain Change F2-1 (Performance standard for connections to stormwater).

Background

Change F2-1 is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
The purpose of this proposal is to reconsider whether it is appropriate to require connections to stormwater infrastructure through the service connections performance standard for subdivision (Rule 9.3.7).	Amends Rule 9.3.7 so that connections to the stormwater network are no longer required as part of the service connections performance standard.	Delete part of Rule 9.3.7 (9.3.7.1.b)

I note the following background and issues of concern set out in the Section 32 Report at page 101:

- The current performance standard for service connections (Rule 9.3.7) applies at the time of subdivision and requires connections to the stormwater network to be provided for all resultant sites that are likely to be developed, where stormwater infrastructure is available (amongst other requirements).*
- This requirement presents some uncertainty to Plan users where the stormwater infrastructure they are to connect to is an open watercourse (i.e. not piped infrastructure). In this case, the requirement to lay pipe as part of making a connection will not always make sense.*
- Furthermore, this requirement does not work well with the more integrated approach to stormwater management being promoted through Variation 2. For example, it is superfluous where requirements for stormwater management plans and on-site stormwater management systems will apply. These are being introduced for large new*

greenfield residential zoned areas through the addition of the new development mapped area, as addressed under Change F2-2 below. It also does not work well where subdivision in other areas may require on-site stormwater management (see Change F2-3).

- *It can also be difficult for applicants to know where stormwater infrastructure will be 'available' and therefore where the requirement to connect will apply.*

I also note that the performance standard applies to subdivision in not only the residential zones, but also the commercial and mixed use zones, industrial zones, Campus zone, general subdivision in the Recreation zone, and general subdivision in the Rural Residential 1 zone (note that major facilities zones other than Campus zone link back to rules in the other sections of the Plan so are not listed separately here). In these zones, subdivision is a restricted discretionary activity, but discretion to consider 'effects on efficiency and affordability of infrastructure' applies in all instances EXCEPT in the commercial and mixed use zones and for general subdivision in the Recreation zone. This exception was not noted or considered in the Section 32 Report.

Submissions received

2 original submissions were received on Change F2-1 with 1 in support of the changes and 1 in opposition of the changes.

The reason for the submission in support was general support for the changes under the stormwater package including F2-1 (Barry Douglas, S194.006). A further submission from Otago Regional Council (FS184.29) opposed this submission in part because they are of the view that stormwater must be discharged to the public network if available, and this is consistent with the reasons for Otago Regional Council's primary submission (S271.006) in opposition to Change F2-1.

Recommendation

I have considered all submissions received, and reasons for those submissions, and recommend amending Change F2-1 so the requirement to connect to stormwater infrastructure is retained for the commercial and mixed use zones and for general subdivision in the Recreation zone. I also recommend adding an advice note, and a clause on 'conditions of consent that may be imposed' for the assessment of subdivision consents, to clearly indicate that a requirement to connect to stormwater public infrastructure is likely to be imposed where this infrastructure is available.

A consequential recommendation is also made regarding the naming of Rule 9.3.7.AA (addressed and shown in the next section on Change F2-2) to "Stormwater for development".

The reason for recommending amendments is because subdivision in the commercial and mixed use zones, and general subdivision in the Recreation zone, currently do not have 'effects on efficiency and affordability of infrastructure' as a matter of discretion. Therefore, if the service connection performance standard for stormwater is removed for these zones, Council will not have discretion to consider stormwater effects as part of the broader subdivision application, nor require a stormwater connection as a condition of consent. This approach is preferable to adding in the matter of discretion for subdivision in these zones, as it is the clearest approach and the issues identified with the service connection performance standard for stormwater are not as applicable to these zones.

I do not recommend reinstating the performance standard for other zones, as the issues identified above and in the Section 32 Report still apply and stormwater connections can still be considered through the matter of discretion for subdivision regarding 'effects on efficiency and affordability of infrastructure'.

Recommended amendments:

Amend Rule 9.3.7 by adding a new clause AB as follows:

9.3.7.AB Stormwater for subdivision

- a. In a commercial and mixed use zone or Recreation Zone, subdivision activities must provide all resultant sites with connections to the stormwater public infrastructure network, which must be laid at least 600mm into each site.
- b. Activities that contravene this performance standard are restricted discretionary activities. {ORC S271.006}

Consequential amendment to the naming of Rule 9.3.7.AA – see next section on Change F2-2.

Add a new note to Plan users as follows:

Note 9.3.7AB – General advice

- a. In all zones where this standard does not apply, a requirement to connect to stormwater public infrastructure (where available) will be considered through the subdivision consent process. In most instances, a requirement to connect any stormwater public infrastructure network will be required through a consent condition. {ORC S271.006}

Add Rule 9.6.2.2.a.Z on the assessment of effects on efficiency and affordability of infrastructure (stormwater) for subdivision as follows:

Conditions that may be imposed include:

Z. For subdivision activities, a requirement to connect to stormwater public infrastructure (where available). {ORC S271.006}

Consequential amendments, including to refer to Rule 9.3.7.AB in Rule 9.3.7.2. {ORC S271.006}

4.3.2 Change F2-2 (NDMA – Add rules for stormwater management in large greenfield areas)

34. This section also addresses submissions on Change F1-6 (deletion of Policy 2.2.5.2) because of the cross-over with Change F2-2.

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS9.015	Marita Ansin-Johnson	Accept the change	Retain Change F2-2 (adding rules for stormwater management in large greenfield areas).
OS194.008	Barry James Douglas	Accept the change	Retain Change F2-2 (addition of rules for stormwater management in large greenfield areas).
OS1.001	Jane McLeod	Accept the change with amendments	Add rules so dwellings built on green field sites are to collect rainwater in sizeable tanks as potable water to reduce impact on the 3 water issues, where practicable. They could still be connected to the reticulated water for dry periods.
OS271.007	Otago Regional Council	Accept the change with amendments	Amend Policy 2.2.2.Y (Change F2-2) to read as follows: Require Enable and encourage on-site low impact design stormwater management through policies and assessment rules that require for stormwater management in new development mapped areas.

OS271.008	Otago Regional Council	Reject the change	Retain the part of Policy 2.2.5.2 related to stormwater management and make associated changes elsewhere in the plan (including being merged into Objective 2.2.2 and any consequential policy amendments of that Objective).
S271.029	Otago Regional Council	Reject the change	Reinstate Policy 2.2.5.2 and make any associated changes elsewhere in the plan. It is acceptable to ORC if it is merged into Objective 2.2.2.
S231.002 S248.003 S256.003 S257.003 S304.002	Duplicate submissions by Paterson Pitts on behalf of their clients	Reject the change	Reinstate Policy 2.2.5.2 which encourages on-site wastewater disposal.
OS271.009	Otago Regional Council	Accept the change with amendments	Amend Policy 2.7.1.2.X by the deletion of "on-site" in this policy and elsewhere in the "stormwater package".
OS13.008 OS191.007 OS193.006 OS204.007 OS219.013 OS223.007 OS228.008 OS232.006 OS238.004 OS239.005 OS240.007 OS241.007 OS242.006 OS247.007 OS249.012 OS305.007 OS307.008 OS308.007	All submissions on Policy 9.2.1.Y lodged by Sweep Consultancy Ltd on behalf of their clients	If the change is not rejected, amend	Amend Policy 9.2.1.Y and other stormwater related policies for sites within a new development mapped area as follows: 1. Provide a claw-back mechanism whereby when the developer of infrastructure in a new development mapped area with multiple owners vests that infrastructure in Dunedin City Council, Dunedin City Council pays that developer for the infrastructure (less than the developer's pro rata share) and Dunedin City Council claws-back the cost of that infrastructure via development contributions as the other land within that New Development Mapped Area comes online; AND 2. Provide a mechanism whereby the Dunedin City Council can compulsorily acquire easements in New Development Mapped Areas for new infrastructure; AND 3. ... [see Section 4.3.5 below] 4. Remove the requirement for infrastructure to be installed prior to subdivision consent (Policy 9.2.1.Y requires installation of a communal stormwater management system prior to development). 5. Amend Rule 9.5.3.Z.a as follows: 'Effectiveness and efficiency of stormwater management and effects of stormwater from future development within the subject new development mapped area ' and such further, alternative, or consequential relief as may be necessary to fully give effect to this submission.
OS76.015 OS79.009 OS150.009 OS203.015 OS206.017 OS230.008 OS264.005 OS270.009 OS282.016	All submissions on Policy 9.2.1.Y lodged by Paterson Pitts and by Paterson Pitts Group on behalf of their clients	If the change is not rejected, amend	Remove Policy 9.2.1.Y or amend to only require on-site stormwater management systems where: 1. the area of development is within a new greenfield site and; 2. where Council's modelling demonstrates that development of the site is likely to lead to unacceptable adverse effects downstream. All other greenfield sites should have either no stormwater infrastructure requirements or be required to meet a performance standard related to a standardised 'roof detention tank per site'.

OS286.008 OS291.013 OS295.007 OS300.010			
OS220.007 OS263.007	Terramark Limited and Terramark Limited on behalf of their clients.	If the change is not rejected, amend	Amend Policy 9.2.1.Y to be specific to certain NDMA sites where: 1. the land in question is a new greenfields site, and 2. Council's stormwater modelling can clearly show that development of the site (without stormwater controls) is likely to lead to unacceptable adverse effects downstream.
OS271.010	Otago Regional Council	Accept the change with amendments	Amend Policy 9.2.1.Y to: 1. remove the limitation of "on-site" 2. clarify the letters "NDMA" in paragraph a 3. provide for no change in hydrological effect from the subdivision. Other factors such as volume of runoff, duration, and time of concentration must be included. See further the submission on 9.9.X 4. remove the words "into the stormwater public infrastructure at any point" 5. add "integrated" before stormwater management system 6. delete paragraph (b).
OS189.021	Ryman Healthcare limited	Accept the change with amendments	Amend Rule 9.6.2.X(1)(2) to read: any adverse effects from an increase in discharge on the stormwater public infrastructure are no more than minor suitably attenuated.
OS205.021	Retirement Villages Association of New Zealand	Accept the change with amendments	Amend Rule 9.6.2.X(1)(2) to read: any adverse effects from an increase in discharge on the stormwater public infrastructure are no more than minor suitably attenuated.
OS271.014	Otago Regional Council	Accept the change with amendments	Amend Rule 9.6.2.X Assessment of restricted discretionary activities - In a new development mapped area: All subdivision activities, to give effect to the changes sought in this submission.
OS271.011	Otago Regional Council	Accept the change with amendments	Amend Policy 9.2.1.X to: 1. replace "Require" with "only allow" 2. clarify differences in wording between 9.2.1.Y and 9.2.1.Z to avoid confusion 3. delete "communal" 4. delete "on-site".
OS76.016 OS79.010 OS150.010 OS203.004 OS206.018 OS230.019 OS264.006 OS270.010	All submissions on Policy 9.2.1.X lodged by Paterson Pitts Group and by Paterson Pitts Group on behalf of their clients	Reject the change	Remove Policy 9.2.1.X which requires development in a new development mapped area to be connected to the integrated communal on-site stormwater management system.

OS282.017 OS286.009 OS291.014 OS295.008 OS300.011			
OS271.005	Otago Regional Council	If the change is not rejected, amend	Amend Rule 9.3.7.AA (Stormwater) so that reserves, access, network utilities and roads are included in stormwater management plans and systems required by this variation.
OS271.012	Otago Regional Council	Accept the change with amendments	Amend Rule 9.3.7.AA Stormwater and Note 9.3.7.AAA - General advice and other requirements outside of the District Plan to: 1. reword clause a of Rule 9.3.7.AA to read "in a new development mapped area with more than 60m² of impermeable surface in total, all development must connect ..." 2. delete "communal" 3. add "integrated" before stormwater management system 4. cover development without subdivision 5. make a stormwater management plan mandatory for new development mapped areas 6. require a restricted discretionary activity consent for any development creating impermeable surface area greater than 60m² 7. add after "stormwater management system" the words "installed in accordance with a subdivision consent for the new development mapped area".
OS295.015 OS76.023 OS79.017 OS150.018 OS203.003 OS206.025 OS230.013 OS264.015 OS270.018 OS282.025 OS286.017 OS291.022 OS300.019	All submissions on Policy 9.3.7.AA lodged by Paterson Pitts Group and by Paterson Pitts Group on behalf of their clients	Accept the change with amendments.	Amend Rule 9.3.7.AA to include options for suitable alternative servicing arrangements for stormwater and include a provision that enables the use of a consent notice to require installation of service connections as part of the building process, rather than requiring these to be installed at the time of subdivision.
OS220.010 OS263.009 OS202.007	Submissions by Terramark Limited and on behalf of their clients.	Accept the change with amendments	Amend Rule 9.3.7.AA to include the following: 1. Consideration of alternative servicing arrangements, where these are recognised as being acceptable. This may require an assessment matter for the applicant to demonstrate that the alternative solution will achieve a particular standard. 2. It should be recognised that a number of these alternative solutions are better implemented at the time of building

			(rather than at the time of subdivision). Accordingly, the inclusion of a provision that recognises the use of a consent notice to require installation of service connections as part of the building process is also sought.
OS271.013	Otago Regional Council	Accept the change with amendments	Amend Rule 9.5.3.Z Assessment of performance standard contraventions - In a new development mapped area: Service connections - stormwater (Rule 9.3.7.AA), to give effect to the changes sought in this submission.
OS271.016	Otago Regional Council	Accept the change with amendments	Amend Rule 15.3.4.1 (Development Activity Status Table - Performance standards that apply to all development activities), to give effect to the other submissions made on the stormwater package.
OS235.006	Waka Kotahi (NZ Transport Agency)	Accept the change	Retain the changes proposed for Rule 15.3.4.1 Development Activity Status Table - Performance standards that apply to all development activities.
OS271.017	Otago Regional Council	Accept the change with amendments	Amend Rule 15.6.X Service Connections - Stormwater to give effect to the other submissions made on the stormwater package.
OS271.018	Otago Regional Council	Accept the change with amendments	Amend rules 15.10.4.Y and 15.11.5.Y to ensure the cross reference to Rule 9.5 provides greater precision.

Background

Change F2-2 is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
The purpose of this proposal is to add provisions to ensure stormwater from development of large areas of greenfield residential land will be appropriately managed, including by ensuring effects on both private and public stormwater systems, and where stormwater may directly or indirectly lead to flood hazards elsewhere, are appropriately assessed	Adds provisions applying to the new development mapped area (NDMA) which require submission of a stormwater management plan at the time of applying for subdivision consent, for development that contravenes a new service connection performance standard, and for multi-unit development or supported living facilities. Requires on-site stormwater management in an NDMA to ensure no increase in pre-development peak stormwater discharge. Adds a new service connection performance standard requiring development to connect to the on-site stormwater management system.	• Add new Policy 2.2.2.Y • Delete Policy 2.2.5.2 • Amend Policy 2.7.1.2 • Add new Policy 9.2.1.Y • Add new Policy 9.2.1.X • Add new Rule 9.3.7.AA • Add new Note 9.3.7.AAA • Add new assessment Rule 9.5.3.Z • Add new assessment Rule 9.6.2.X • Add new special information requirement Rule 9.9.X • Amend development activity status table Rule 15.3.4.1 • Add new Rule 15.6.X • Add new Assessment Rule 15.10.4.Y • Add new Assessment Rule 15.11.5.Y

I note that this change is linked with the next change assessed in this report (Change F2-3) which includes provisions linking subdivision and development activities outside the NDMA to a possible requirement to provide a stormwater management plan. Therefore, consideration of Rule 9.9.X on stormwater management plans is addressed separately in Section 4.3.6 below, after the section on Change F2-3. All other parts of Change F2-2 are addressed here.

Further background to this change (F2-2) and the issues it seeks to resolve is provided in the Section 32 Report (from page 102). Of note, guidance on when a stormwater management plan is required to be provided for an application for subdivision or development is currently not provided in the Plan. Consequently, stormwater management

plans are currently often required as a condition of resource consent, even though it would be more appropriate for these to be provided with an application up-front to enable the details to be assessed by Council as part of considering the resource consent application.

Submissions received

80 original submissions were received on Change F2-2 with 3 in support, 14 in opposition of the changes and 63 seeking changes.

Reasons for general support of Change F2-2 by two submitters were not stated (Barry Douglas, S194.008; Marita Ansin-Johnson, S9.015). Other submissions on specific provisions, including those in opposition or seeking amendments, are dealt with under the headings below along with an outline of the evidence, assessment, and recommendation for each of the proposed amendments.

I note that the majority of submissions were lodged by planning consultancy Sweep Consultancy Ltd and surveying firms Terramark Ltd and Paterson Pitts Group for themselves and on behalf of their clients. The Otago Regional Council also submitted on this change requesting amendments. Submissions are addressed below by provision, grouped under headings covering the three main changes progressed as part of Change F2-2.

Amendments to strategic directions linked to new Change F2-2 methods

As part of Change F2-2, amendments were proposed to three strategic direction policies linked to the proposed new methods for managing stormwater effects in the new development mapped areas (NDMAs). These are addressed below.

Policy 2.2.2.Y

This new policy sits under amended Objective 2.2.2 on Environmental performance, which includes an outcome for Dunedin to reduce its environmental costs as much as practicable, including the quality and quantity of stormwater discharge. The proposed policy is as follows:

Enable and encourage on-site low impact design stormwater management through policies and assessment rules that require stormwater management in new development mapped areas.

One submission was received from Otago Regional Council (S271.007) which requested that the policy be reworded to read as follows: **Require** ~~Enable and encourage on-site low impact design stormwater management through policies and assessment rules that require for stormwater management in new development mapped areas.~~
The reasons for this submission were to make the policy more directive and to provide for solutions located off site. No further submissions were received.

I recommend retaining Policy 2.2.2.Y as notified, except for the removal of the words “on-site”. The reasons for this recommendation are that the proposed wording is generally in accordance with the 2GP Style Guide, and it is not usual for strategic direction policies to begin with a directive term such as ‘require’ (which is only used for policies in the chapters of the Plan that set up performance standards). Strategic directions are generally descriptive of methods contained in the Plan. However, I accept that in some instances it may be appropriate for stormwater management to occur outside of the NDMA area to which it relates, and so I recommend deletion of the term ‘on-site’.

Policy 2.2.5.2

This policy is proposed to be deleted as part of Change F2-2 and Change F1-6 because it is not implemented in the current Plan and the proposed policies and provisions for on-site stormwater and wastewater management replace it through Variation 2. The policy currently reads as follows:

Enable and encourage on-site stormwater and wastewater management, where this would not endanger groundwater and is not in conflict with the efficient use of existing public, wastewater and stormwater infrastructure, through rules that provide for an alternative to connecting to public water supply, wastewater and stormwater infrastructure.

Two submissions were received from Otago Regional Council (S271.008 and S271.029) which requested that the elements of the policy related to stormwater be retained and implemented (by a performance standard – S217.008), or that the policy be reinstated in whole (S271.029). The reasons for this submission were to support integrated management by retaining a strategic policy that recognises that development activities controlled by the DCC have the potential to have adverse effects on groundwater and/or public infrastructure.

Duplicate submissions were received from Paterson Pitts Group on behalf of their clients seeking the reinstatement of Policy 2.2.5.2 because it encourages on-site wastewater disposal (Barry Douglas & Fiona Lynn Armour S231.002, David Leslie Meyer & Christine Raywin Cordell S248.003, Tony Steven McFadgen (Ocean Park Trust) S256.003, Barbara and Donald McCabe S257.003, Craig James and Kirsten Jane Duncan (Duncan Clan Family Trust) S304.002).

Otago Regional Council lodged further submissions (FS184.49, FS184.62, FS184.65, FS184.66 and FS184.90) supporting in part the duplicate submissions by Paterson Pitts Group on behalf of their clients (OS231.002, OS248.003, OS256.003, OS257.003 and OS304.002 respectively). The reasons for support in part extended to the policy recognising consideration of positive environmental performance and protection of groundwater resources and that on-site wastewater management should only be considered when public infrastructure is unavailable.

Further submissions were also received from Charles Pearce (FS45.2) and Craig Duncan (Duncan Clan Family Trust) (FS59.2), supporting submission OS304.002 from Craig James and Kirsten Jane Duncan (Duncan Family Trust). However, Dan and Liz Koni (FS61.2) opposed submission OS304.002 primarily because they are opposed to rezoning sought by the submitter.

I recommend that Policy 2.2.5.2 be deleted as proposed, particularly as effects on groundwater are managed by the ORC through its own policies and plans. Other Variation 2 changes (including those made as part of Change F2-2) adequately provide for and control on-site stormwater management.

Policy 2.7.1.2.X

This policy is proposed to be amended to add a clause setting up the method of requiring stormwater management in the new development mapped area. This clause is proposed as follows:

Ensure areas of new urban development provide for public infrastructure networks that represent the least possible long term cost to the public through:

...

*X. policies and assessment rules that require on-site stormwater management in the **new development mapped area**;*

One submission was received from Otago Regional Council (S271.009) which requested the removal of the term 'on-site', as for other provisions subject to Change F2-2.

I agree with this submission (as for Policy 2.2.2.Y above, and other provisions), and recommend deletion of the term 'on-site' from Policy 2.7.1.2, with no other changes recommended.

Requirement for stormwater management for subdivision in NDMA

One of the key aspects of the proposal for Change F2-2 is the introduction of a requirement for stormwater management for subdivision in an NDMA (the other key aspect is the requirement for development to connect to stormwater management systems, to be addressed in the next section).

Provisions relating to stormwater management for subdivision in an NDMA that were amended under Change F2-2 were:

- Policy 9.2.1.Y – setting out the policy test for stormwater management for subdivision in an NDMA
- Rule 9.6.2.X – adding a new assessment rule for stormwater management for subdivision in an NDMA
- Rule 9.9.X – adding a new ‘special information requirement’ that sets out the requirements for stormwater management plans for subdivision in an NDMA
- Rule 15.11.5.Y – a consequential change adding a linking assessment rule from the residential section of the plan to the public health and safety section of the plan (where assessment rules for 3 waters infrastructure are located).

Submissions, assessments, and recommendations on each of these provisions are set out below.

Policy 9.2.1.Y

The proposed policy wording is as follows:

*Only allow subdivision activities in a **new development mapped area** where:*

- a. an on-site stormwater management system that is designed for the whole NDMA and is installed in full or in planned stages prior to development will ensure there is no increase in the pre-development peak stormwater discharge rate from the site into the stormwater public infrastructure (at any point); or*
- b. where this is not practicable, any adverse effects from an increase in discharge on the stormwater public infrastructure are no more than minor.*

ORC submission on Policy 9.2.1.Y

A submission from Otago Regional Council (S271.010) seeks the following amendments:

- remove "on-site"
- clarify the letters "NDMA" in paragraph (a)
- provide for no change in hydrological effect from the subdivision. Other factors such as volume of runoff, duration, and time of concentration must be included. See further the submission on 9.9.X
- remove the words "into the stormwater public infrastructure at any point"
- add "integrated" before stormwater management system
- delete paragraph (b).

Reasons for the submission include concern that the policy only provides for discharges of stormwater into the DCC network, whereas this will not always be the case. There are implications for discharges to ORC drains and waterbodies managed by ORC, and implications for the operation of ORC’s flood protection works. Broad principles noted in ORC’s submission also highlight its responsibilities regarding stormwater quality and quantity, the need to anticipate climate change effects, and concern regarding the potential for adverse effects on people and property.

A further submission in opposition to the ORC’s submission was received from Kurt Bowen of Paterson Pitts Group (FS142.1), as he seeks retention of the notified wording.

Expert evidence from Mr Jared Oliver and Ms Jacinda Baker, DCC 3 Waters, was sought to support the assessment of this submission. Key points from their evidence include that:

- DCC 3 Waters’ preference is for ‘on-site’ stormwater management systems, but it is noted that the policy also provides flexibility for where this is not possible or better alternatives are available [in clause (b) of the policy – noting that ORC also seeks for this clause to be deleted];
- Including details in the policy on other factors (e.g. runoff) would be too detailed for a policy as it sets out the goal and implementation is detailed in Rule 9.9.X;

- It is not possible to achieve “no change in hydrological effect from the subdivision”
- Use of the term ‘integrated communal stormwater management system’ is preferred by DCC 3 Waters for both Policy 9.2.1.Y and 9.2.1.Z for consistency and clarity. They consider the term ‘communal’ should be retained because DCC 3 Waters’ preference is for shared systems, not individual ones;
- Clause (b) should be retained, as it allows a level of flexibility and acknowledges that on-site stormwater management is not always possible or desirable on the site

Overall, I recommend that Policy 9.2.1.Y be amended to address some of the points raised by ORC, but not all. My recommendations on each point are set out below.

- I accept Mr Oliver’s and Ms Baker’s evidence, except regarding specifying that stormwater management systems should be ‘on-site’ and ‘communal’. Overall, I find the reference to ‘on-site’ to be confusing as it is unclear which ‘site’ this is referring to, although the intention is that it refers to ‘within the NDMA’. “Site” is also a defined term within the 2GP, further adding to the confusion. I agree with the ORC submission that stormwater management solutions may be appropriately located ‘off-site’ (i.e. outside the NDMA). I agree with the 3 Waters evidence regarding clause (b) providing an exception where on-site systems are not practicable, but I prefer the option of removing the term ‘on-site’ for clarity.
- I recommend rejecting the ORC submission seeking clarification of the letters ‘NDMA’ within clause (a). I note that this term is spelled out in the opening clause of the policy and that when read in its final location in the e-plan, abbreviations will be displayed with hyperlinks to open pop-ups with the definition. It is preferable to rely on this system and keep the policy as concise as possible.
- I recommend rejecting the ORC submission seeking no change in hydrological effect and I agree with the 3 Waters evidence on this matter.
- I agree with the broader points raised in ORC’s submission that outcomes relating to flooding effects and the effects of climate change on future stormwater management should be addressed. However, these outcomes are more relevant to other objectives and policies in the Plan regarding natural hazards, which are not addressed in Section 9. Therefore, I consider it inappropriate to reference these in Policy 9.2.1.Y. Instead, I recommend the addition of assessment guidance in Rule 9.6.2.X to address this, and I note that the recommended drafting for Rule 9.9.X includes a clause climate change to address ORC’s concerns (see Section 4.3.6 on Rule 9.9.X).
- I agree with ORC’s submission that the policy should address effects on the broader stormwater system, rather than only on the DCC’s stormwater network. The integrated nature of various aspects of the stormwater system has already been addressed and incorporated into other policies proposed as part of Variation 2 (e.g. Policy 9.2.1.Z under Change F2-3). It is appropriate for Policy 9.2.1.Y to take a consistent approach, and I have recommended drafting changes below which reflect this, including reference to private stormwater systems and an amendment to the definition of ‘public infrastructure’ (see Section 4.3.4 below for drafting) to be clear it includes ORC stormwater infrastructure.
- I agree with ORC’s submission regarding adding the word ‘integrated’ regarding stormwater management systems and deleting the term ‘communal’ for consistency with other policies.
- I recommend rejecting the ORC submission seeking deletion of clause (b) of the policy, which provides an exception where it is impracticable to achieve the policy. I agree with the 3 Waters evidence that it is appropriate to retain this level of flexibility to account for a range of circumstances.
- I note that changes to Policy 9.2.1.Y to include other activities than subdivision are shown below. This is in response to ORC submissions on Rule 9.9.X, which are addressed in Section 4.3.6 below.

Other submissions on Policy 9.2.1.Y

The DCC also received submissions on Policy 9.2.1.Y from three consultants representing the interests of developers and landowners. These consultants were Sweep Consultancy (planning consultancy), and Terramark Limited and Paterson Pitts Group (both surveying firms). Submissions were also received from some individual submitters. The details of submissions are set out as follows:

- From Sweep Consultancy, a request for a clawback mechanism so DCC pays a developer for the share of infrastructure vested in it that benefits other landowners in the NDMA, and a request for a mechanism to compulsorily acquire easements from other landowners. The reasons for the submission include concerns around

implementing Policy 9.2.1.Y in new development mapped areas with multiple landowners, and that the policy should be amended so that the requirements for the installation of infrastructure aren't prior to subdivision consent being obtained but that the design of infrastructure should be considered at the consenting stage and development process (18 duplicate submissions submitted on behalf of: Bill Morrison S13.008, Roger and Janine Southby S191.007, Ken Close S193.006, Ron Balchin S204.007, Gladstone Family Trust S219.013, Ed Stewardson S223.007, Wendy Campbell S228.008, Meats of New Zealand Limited S232.006, Willowcroft Limited S238.004, Dunedin City Baptist Church S239.005, Invermark Investments Ltd S240.007, Grant Motion S241.007, DDS Properties (2008) Limited S242.006, Cole Bennetts S247.007, Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd S249.012, Outram Developments Limited S305.007, Peter Doherty S307.008, CC Otago Limited S308.007).

- From Terramark, a request that the policy only applies to new greenfield areas where modelling shows that there are likely to be unacceptable downstream effects. The reasons for the submission include concerns that each new development mapped area will have different on site stormwater requirements (2 duplicate submissions from Terramark S220.007 and on behalf of Terramark's client GTJM Property Limited S263.007).
- From Paterson Pitts Group, the same request as for Terramark, but with the additional suggestion that sites that do not meet these criteria could have a performance standard applied to require a roof water detention tank on each site (13 duplicate submissions from Paterson Pitts Group and on behalf of Paterson Pitts Group clients Christopher Connor & Tina Prendergast S76.015, Glenelg Street Trust Board Incorporated S79.009, Giler and Katherine Wynn-Williams S150.009, Tom and Loretta Richardson S203.015, BA Building Ltd S230.019, Paterson Pitts Group S206.017, D N Innovations Ltd S264.005, Doug Hall S270.009, Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch S282.016, Karen Knudson & Ross Brown S286.008, Margaret Charles & Marguerita Lazar S291.013, HMW Properties Ltd S295.007, Kurt Bowen S300.010).

Further submissions from Otago Regional Council (FS184) were received generally in opposition to the above points because they seek that Policy 9.2.1.Y be retained and amended in accordance with their own submission.

- A submission from Jane McLeod (S1.001) also seeks that there is a requirement for new sites in greenfield area are required to collect rainwater in detention tanks to reduce the impact on the 3 waters capacity issues. The Otago Regional Council supported this point (FS184.290) provided the public health implications of untreated water are addressed.
- Submissions from Ryman Healthcare (S189.021) and Retirement Villages Association of NZ (S205.021) seeking for the policy test in clause (b) of Policy 9.2.1.Y to be amended to read:
any adverse effects from an increase in discharge on the stormwater public infrastructure are ~~no more than minor~~ suitably attenuated. I note that this submission was made on the paraphrasing of this policy in Rule 9.6.2.X but has the effect of seeking amendment to the policy. Further submissions in opposition were received from Otago Regional Council (FS184).

Expert evidence from Mr Jared Oliver and Ms Jacinda Baker, DCC 3 Waters, was sought to support the assessment of these submissions. Key points from their evidence include that:

- Regarding funding and the suggested "clawback mechanism", see 'Issue 3' in Section 4.1.2 above as this is not addressed further here;
- Regarding the requirements for easements, if this is for easements in favour of the development land over other land, this would normally be secured by developers as part of the subdivision process;
- The installation of a stormwater management system would be a condition of subdivision consent and would need to be done prior to s224 certificate;
- Stormwater modelling is not available for all NDMA areas and potential effects need to be assessed as part of a resource consent application. Good management of stormwater to minimise potential effects is important in greenfield areas due to the significant change in flow and volume as a result of development. Stormwater not only has effects on public infrastructure, but also on private watercourses and infrastructure.

Overall, I recommend that the Panel amends Policy 9.2.1.Y to address some of the points raised by ORC, as set out earlier, but I do not recommend any changes in response to the submissions detailed above. The reason for this recommendation is primarily because I accept the evidence provided by Mr Oliver and Ms Baker. In addition, I note that:

- I consider it inappropriate for mechanisms for the acquisition of easements to be included in the 2GP; easements over private land to aid a development proposal on other private land are a matter to be dealt with by the relevant landowners;
- For clarity, Policy 9.2.1.Y only requires the installation of stormwater management systems prior to development, rather than prior to subdivision, and the provisions set up a process whereby the design of such systems will be considered through the subdivision consent process via assessment of the required stormwater management plan;
- For clarity, the recommended wording of Policy 9.2.1.Y provides for alternative approaches to stormwater management where it is not practicable to meet the primary policy test, provided the adverse effects are no more than minor, and so I consider it unnecessary to distinguish between different ‘types’ of NDMA or to impose a performance standard requiring roof water detention on a site-by-site basis;
- The policy test for alternative approaches (in clause (b)), being that effects are no more than minor, is an appropriate policy test and this provides for options for ‘suitable attenuation’ to achieve this outcome;
- The proposed NDMA areas where these provisions will apply are large greenfield areas where an integrated approach to stormwater management prior to development is more appropriate than setting requirements for individual development lots after subdivision;
- I consider that the general reasons for the relief sought by Jane McLeod (S1.001) regarding managing 3 waters capacity issues for greenfield development are broadly addressed by the proposal and no additional amendments are required.

Rule 9.6.2.X

This is the assessment rule for subdivision in a new development mapped area that applies the Policy 9.2.1.Y. One submission was received from Otago Regional Council (S271.014) seeking amendments to align this assessment rule with other changes sought in their submission. However, the only amendments that are required are consequential changes to reflect recommended amendments to the policies that are paraphrased in this rule.

Rule 9.9.X - Special Information Requirement

This rule sets out the requirements for a stormwater management plan to be lodged with an application for subdivision in an NDMA. The proposed rule also includes reference to broader development and land use activities and subdivision outside an NDMA, so this provision and submissions on it are considered separately later in Section 4.3.6 of the report.

Rule 15.11.5.Y

This rule provides a link from the residential section of the plan to the public health and safety section of the plan where assessment rules for 3 waters infrastructure are located. One submission was received from Otago Regional Council (S271.018) seeking that the cross reference to Section 9.6 be more precise so that it is clear which part of this section applies. I do not recommend making the changes sought, as the reference to Section 9.6 is consistent with all other referencing to Section 9 provisions in the 2GP and the description and assessment matter included at Rule 9.6.2.X makes it clear that it is this assessment rule that is relevant.

Requirement for development to connect to on-site stormwater management system in NDMA

The second key aspect of Change F2-2 is the requirement for development in an NDMA to connect to a stormwater management system. This aspect of the change is required to ensure that the requirements for a stormwater management plan and integrated stormwater management system (which are applied through the subdivision process) are also tied to land use and development that occurs on an NDMA. This includes any land use and development that might occur prior to a subdivision being progressed (e.g. a retirement village could be progressed without subdivision but stormwater effects would still need to be addressed in an integrated way). This aspect of the changes also manages the risk

that a developer could undertake permitted development prior to subdivision and then argue that the effects are established (or argue the permitted baseline applies) at the time of subdivision.

Provisions that were amended for this aspect of Change F2-2 were:

- Policy 9.2.1.X – sets the policy test requiring development in an NDMA to connect to an integrated communal on-site stormwater management system;
- Rule 9.3.7.AA
- Note 9.3.7.AAA
- Rule 9.5.3.Z
- Rule 15.3.4.1.Y
- Rule 15.6.X
- Rule 15.10.4.Y

Submissions, assessments, and recommendations on each of these provisions are set out below.

Policy 9.2.1.X

This provision sets the policy test requiring development in an NDMA to connect to a stormwater management system. The proposed wording is as follows:

*Require development in a **new development mapped area** that creates impermeable surfaces to be connected to the integrated communal on-site stormwater management system that meets Policy 9.2.1.Y.*

Submissions are as follows:

- ORC (S271.011) seeks changes to Policy 9.2.1.X to:
 - replace "Require" with "only allow" because a consent process is necessary to assess a stormwater management system for the whole development
 - clarify differences in wording between 9.2.1.Y and 9.2.1.Z to avoid confusion
 - delete "communal", as this term does not appear in Policy 9.2.1.Y, and systems should be vested in DCC to ensure maintenance over time
 - delete "on-site" because it limits other options

A further submission in opposition was received from Kurt Bowen of Paterson Pitts Group (FS142.2) because he seeks the retention of Policy 9.2.1.Y as notified.

- Duplicate submissions from Paterson Pitts Group seeking deletion of the policy because it is unclear what it is trying to achieve and is probably unnecessary (on behalf of their clients: Christopher Connor & Tina Prendergast S76.016, Glenelg Street Trust Board Incorporated S79.010, Giler and Katherine Wynn-Williams S150.010, Tom and Loretta Richardson S203.004, Paterson Pitts Group S206.018, BA Building Ltd S230.019, D N Innovations Ltd S264.006, Doug Hall S270.010, Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch S282.017, Karen Knudson & Ross Brown S286.009, Margaret Charles & Marguerita Lazar S291.014, HWH Properties Ltd S295.008, Kurt Bowen S300.011).

Further submissions in opposition were received from Otago Regional Council (FS184) because they seek the retention of Policy 9.2.1.X.

Expert evidence on these submissions has been provided by Mr Jared Oliver and Ms Jacinda Baker. In summary, they note that:

- A change of wording to 'only allow' would set up a requirement for resource consent for all development in the NDMA, in addition to consent requirements for subdivision;
- Use of the term 'integrated communal stormwater management system' is recommended by DCC 3 Waters for consistency across all relevant policies;
- Use of the term 'communal' does not imply that the system will be privately owned. The provisions requiring a stormwater management system through the subdivision process set out requirements to vest those systems in Council [see Rule 9.6.2.X];

- Retention of the term 'on-site' is preferred, but Policy 9.2.1.Y provides flexibility where this is not practicable.

I recommend that Policy 9.2.1.X be retained as notified, except for the deletion of the terms 'on-site' and 'communal', consistent with my recommendations for other provisions in Change F2-2.

The main reason for this recommendation is that I agree with the evidence provided by 3 Waters, except that I consider it acceptable to remove the term 'on-site' to remove any confusion over what this term means (see earlier assessments in this section for further discussion) and because it may be that not all aspects of a stormwater management system will be communal.

I also note that Policy 9.2.1.X is setting up a performance standard for development in an NDMA, to be included in the service connections performance standard (see below). This is effectively requiring a subdivision and a stormwater management plan for the NDMA to be applied for and assessed prior to development occurring. If this is not undertaken, the performance standard would be contravened, and a stormwater management plan would be required through the subsequent resource consent process. This alleviates ORC's concerns regarding the need for a consenting process and explains the reasons for the policy and associated provisions for the Paterson Pitts Group submitters.

Rule 9.3.7.AA

This rule adds a new clause to the service connections performance standard to apply to development in an NDMA. It is worded as follows:

- a. *In a **new development mapped area**, all development that creates an impermeable surface must:*
 - i. *connect to a communal stormwater management system that services the **new development mapped area**; except:*
 1. *prior to the communal stormwater management system being installed, any development that creates less than 60m² of impermeable surface is exempt from this standard.*
- b. *Activities that contravene this performance standard are restricted discretionary activities.*

It is also important to note the opening clauses of Rule 9.3.7 (as proposed to be amended by Variation 2) erroneously includes Rule 9.3.7.AA in the list of service connection rules that apply to subdivision (and applies an exception for resultant sites created for the purposes listed). I note that this error needs to be corrected to reflect that Rule 9.3.7.AA applies only to development in an NDMA. This is addressed below in response to ORC's submission point (S271.005).

Submissions include the following:

- Duplicate submissions from Paterson Pitts Group and Terramark Ltd requesting inclusion of options for suitable alternative servicing arrangements for stormwater (Rule 9.3.7.AA). They also seek that installation of these service connections are required by consent notice and implemented at the time of building consent (duplicate submissions from Paterson Pitts Group and Terramark Limited on behalf of their clients: HWH Properties Ltd S295.015, Christopher Connor & Tina Prendergast S76.023, Glenelg Street Trust Board Incorporated S79.017, Giler and Katherine Wynn-Williams S150.018, Tom and Loretta Richardson S203.003, Paterson Pitts Group S206.025, BA Building Ltd S230.013, D N Innovations Ltd S264.015, Doug Hall S270.018, Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch S282.025, Karen Knudson & Ross Brown S286.017, Margaret Charles & Marguerita Lazar S291.022, Kurt Bowen S300.019, Terramark Limited S220.010, GTJM Property Limited (Joe Morrison and Gill Thomas) S263.009, K and L Accommodation Limited S202.007). Further submissions in opposition were received from Otago Regional Council (FS184).
- A submission from Otago Regional Council (S271.012) requesting the following amendments:
 - reword clause (a) to read "in a new development mapped area with more than 60m² of impermeable surface in total, all development must connect ..."
 - delete "communal"

- add "integrated" before stormwater management system
- cover development without subdivision
- make a stormwater management plan mandatory for new development mapped areas
- require a restricted discretionary activity consent for any development creating impermeable surface area greater than 60m²
- add after "stormwater management system" the words "installed in accordance with a subdivision consent for the new development mapped area".
- A submission from Otago Regional Council (S271.005) requesting amendments so that reserves, access, network utilities and roads are included in stormwater management plans as these create impermeable surfaces which generate additional stormwater discharges.

Expert evidence on the matters raised in these submissions has been provided by Mr Jared Oliver and Ms Jacinda Baker. Key points from their evidence include:

- The request to enable alternative solutions to connection to a communal stormwater management system is inappropriate because the sorts of methods the submitters are referring to will be private systems on individual lots and this would result in potential maintenance and effectiveness issues in the long-term. Communal stormwater systems are a better option for large development sites;
- That ORC's proposed wording regarding the area of impermeable surfaces would place unfair requirements on developers to have a stormwater management system installed very early in their project;
- That the term 'communal' does not mean 'private' but is referring to a shared system that would usually be vested in Council;
- 3 Waters prefers the use of the term 'integrated communal stormwater management systems';
- The proposed rule does cover development without subdivision and ORC's proposed amendment would effectively require all development to obtain a resource consent and this is not reasonable or necessary;
- ORC's suggestion to add the words "installed in accordance with a subdivision consent for the new development mapped area" is acceptable to 3 Waters;
- That roads are created as part of subdivision and do not fall within the definition of development as applied in Rule 9.3.7.AA and this could be rectified.

I recommend that Rule 9.3.7.AA be retained as notified, except for the following amendments:

- Delete the reference to Rule 9.3.7.AA from Rule 9.3.7.2 (which regards subdivision, not development);
- Amend the terminology to refer to 'integrated stormwater management system' in line with other amendments recommended in this report
- Amend the rule to also apply to 'new roads or additions or alterations to existing roads' (which is a defined activity), in addition to development;
- Include a requirement for the stormwater management system to meet the requirements of Rule 9.9.X.
- Consequential to the recommendation for Change F2-1 above, which adds a new clause to the Service Connections performance standard "9.3.7.AB Stormwater for subdivision", amend the name of Rule 9.3.7.AA to read "Stormwater for development" and make consequential changes where this wording is referenced.

The reason for this recommendation is primarily because I accept most of the evidence from 3 Waters. However, I also note the following:

- As noted above, the reference to Rule 9.3.7.AA in Rule 9.3.7.2 was included in error. This has led to confusion, as evidenced in ORC's submission (S217.005) and a need to correct the error in response;
- I do not recommend the addition of the words "installed in accordance with a subdivision consent for the new development mapped area", as requested by ORC, as although this is what is likely to occur in practice, this would effectively specify a change in activity status for development dependent on the outcome of an earlier subdivision consent and this would be *ultra vires*³. As an alternative, I have recommended the inclusion of a requirement for the stormwater management system to

³ *Queenstown Airport Corp Ltd v Queenstown Lakes District Council* [2014] NZEnvC 93

meet the requirements of Rule 9.9.X. The advice note associated with this rule (Note 9.3.7.AAA) is also recommended for amendment to further assist Plan users (see the assessment below).

Note 9.3.7.AAA

This note to plan users is proposed to sit alongside Rule 9.3.7.AA on service connections for development. Clause (a) provides general guidance to plan users on how installation of a stormwater management system in an NDMA works. Other clauses in this note are added under another change proposal (Change F2-4) and detail other requirements for stormwater that sit outside the Plan.

Submissions were received seeking the following:

- That Note 9.3.7.AAA be amended so that the requirements for the installation of infrastructure isn't prior to subdivision consent being obtained. The design of infrastructure should be considered at the consenting stage and development process. (18 duplicate submissions submitted on behalf of submitters by Sweep Consultancy Limited: Bill Morrison S13.008, Roger and Janine Southby S191.007, Ken Close S193.006, Ron Balchin S204.007, Gladstone Family Trust S219.013, Ed Stewardson S223.007, Wendy Campbell S228.008, Meats of New Zealand Limited S232.006, Willowcroft Limited S238.004, Dunedin City Baptist Church S239.005, Invermark Investments Ltd S240.007, Grant Motion S241.007, DDS Properties (2008) Limited S242.006, Cole Bennetts S247.007, Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd S249.012, Outram Developments Limited S305.007, Peter Doherty S307.008, CC Otago Limited S308.007). Further submissions in opposition were received from Otago Regional Council (FS184) because they do not want amendments to Policy 9.2.1.Y unless they are consistent with their own submissions.
- That Note 9.3.7.AAA be amended so that it deals with concerns around when a stormwater management system will be considered and how it would be assessed if the subdivision did not precede the development (ORC, S271.012).

I recommend that Note 9.3.7.AAA be retained as notified, except for the addition of explanation around when development will require a consent and with minor amendments that are consequential to other recommendations made in this report, including:

- amending the wording to refer to "integrated stormwater management system";
- not referring only to subdivision consent because a stormwater management system is now required for other consents (see amendments to Policy 9.2.1.Y and Rule 9.9.X).

For clarity, and as for the assessment set out for Rule 9.3.7.AA above, the rule does account for development occurring prior to subdivision and this can be clarified by the proposed amendment. The rule also does not require installation of stormwater management infrastructure prior to subdivision consent being obtained, as Change F2-2 overall is requiring that stormwater management be considered through the subdivision consent process and if this has not occurred prior to development being undertaken, then stormwater management will need to be considered through a development consent.

Rule 9.5.3.Z

This is the assessment rule for contravention of the Service Connections for Development performance standard and the following submissions were received:

- request that the matter of discretion in Rule 9.5.3.z.a be amended to read "Effectiveness and efficiency of stormwater management and effects of stormwater from future development **within the subject new development mapped area**" (18 duplicate submissions submitted on behalf of submitters by Sweep Consultancy Limited: Bill Morrison S13.008, Roger and Janine Southby S191.007, Ken Close S193.006, Ron Balchin S204.007, Gladstone Family Trust S219.013, Ed Stewardson S223.007, Wendy Campbell S228.008, Meats of New Zealand Limited S232.006, Willowcroft Limited S238.004, Dunedin City Baptist Church S239.005, Invermark Investments Ltd

S240.007, Grant Motion S241.007, DDS Properties (2008) Limited S242.006, Cole Bennetts S247.007, Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd S249.012, Outram Developments Limited S305.007, Peter Doherty S307.008, CC Otago Limited S308.007)

- request for amendments to give effect to the other changes sought in Otago Regional Council's submission (S271.013)

I recommend that consequential amendments be made to Rule 9.5.3.Z to alter the policy paraphrasing to be consistent with the recommendations made for the relevant policies (Policy 9.2.1.X and Policy 9.2.1.AA). I do not consider it necessary to amend the matter of discretion as suggested in the duplicate submissions, as the rule already only applies within the new development mapped area.

Rule 15.3.4.1.Y

This is a linking rule in the development activity status table that applies the performance standard for Service Connections for development in an NDMA. The following submissions were received:

- request to make amendments to give effect to the changes sought in Otago Regional Council's submission (S271.016);
- request to retain Rule 15.3.4.1.Y (service connections – stormwater (in a NDMA)) as it ensures developers are aware of the need to ensure stormwater is adequately controlled as part of developing an area within a new development mapped area (Waka Kotahi, NZ Transport Agency, S235.006). A further submission in opposition was received from Otago Regional Council (FS184.357) as ORC seek amendments.

These submission points are in essence requests for consequential changes resulting from other changes already addressed above. I note that there will be consequential changes required to this rule resulting from the recommendation for Rule 9.3.7.AA to be renamed.

Rule 15.6.X

This is a linking rule in the Development Performance Standards section of the residential provisions that applies the new Service Connections for Development performance standard. One submission was received from Otago Regional Council (S271.017) seeking amendments to give effect to other submissions they made on the stormwater package.

These submission points are in essence requests for consequential changes resulting from other changes already addressed above. I note that there will be consequential changes required to this rule resulting from the recommendation for Rule 9.3.7.AA to be renamed and applied to 'new roads or additions or alterations to existing roads'.

Rule 15.10.4.Y

This rule provides a link from the residential section of the plan to the public health and safety section of the plan where assessment rules for 3 waters infrastructure are located. One submission was received from Otago Regional Council (S271.018) seeking that the cross reference to Section 9.5 be more precise so that it is clear which part of this section applies. I do not recommend making the changes sought, as the reference to Section 9.5 is consistent with all other referencing to Section 9 provisions in the 2GP and the description attached to the assessment rule at Rule 9.5.3.Z makes it clear which assessment rule is relevant.

I also note that there will be consequential changes required to this rule resulting from the recommendation for Rule 9.3.7.AA to be renamed.

Recommended amendments:

Overall amendments to the relevant provisions to consistently refer to "integrated stormwater management system" and remove reference to "on-site".

Amend Policy 2.2.2.Y as follows:

Enable and encourage ~~on-site~~ low impact design stormwater management through policies and assessment rules that require stormwater management in **new development mapped areas**. {ORC S271.007}

Amend Policy 2.7.1.2.X as follows:

Ensure areas of new urban development provide for public infrastructure networks that represent the least possible long term cost to the public through:

...

X. policies and assessment rules that require ~~on-site~~ stormwater management in the **new development mapped area**; {ORC S271.009}

Amend Policy 9.2.1.Y as follows:

Only allow subdivision activities, multi-unit development, supported living facilities or development that contravenes Rule 9.3.7.AA in a **new development mapped area** where:

- a. an ~~on-site~~ integrated stormwater management system that is designed for the whole NDMA and is installed in full or in planned stages prior to development will ensure there is no increase in the pre-development peak stormwater discharge rate from the site into the stormwater public infrastructure, or into a private stormwater system (at any point); or,
- b. where this is not practicable, any adverse effects from an increase in discharge on the stormwater system ~~public infrastructure~~ are no more than minor.

Amend Policy 9.2.1.X as follows:

Require development in a **new development mapped area** that creates impermeable surfaces to be connected to the integrated ~~communal on-site~~ stormwater management system that meets Policy 9.2.1.Y. {ORC S271.011}

Amend Rule 9.3.7.AA as follows:

9.3.7.AA Stormwater for development

- a. In a **new development mapped area**, all development that creates an impermeable surface and new roads or additions or alterations to existing roads must:
 - i. connect to an integrated ~~communal~~ stormwater management system that services the **new development mapped area** and meets the requirements set out in Rule 9.9.X; except:
 1. prior to the integrated ~~communal~~ stormwater management system being installed, any development that creates less than 60m² of impermeable surface is exempt from this standard.
- b. Activities that contravene this performance standard are restricted discretionary activities.

Consequential changes to the above, including deletion of the reference to Rule 9.3.7.AA in Rule 9.3.7.2 and amendment to the wording of linking rules in Section 15 of the Plan.

Amend Note 9.3.7.AAA(a) as follows:

Note 9.3.7.AAA – General advice and other requirements outside of the District Plan

- a. In a **new development mapped area**, Policy 9.2.1.Y requires installation of an integrated ~~communal~~ stormwater management system prior to development as part of the assessment of a ~~subdivision~~ consent for the listed activities. The requirements for stormwater management are set out in the Special Information Requirements – Rule 9.9.X. Where development occurs prior to consideration of a stormwater management plan through an application for consent, and installation of an associated integrated stormwater management system, a resource consent will be required under Rule 9.3.X to enable a stormwater management plan to be assessed.

Amend Rule 9.5.3.Z to make policy paraphrasing consistent with recommendations for the relevant policies (Policy 9.2.1.X and Policy 9.2.1.AA).

Any consequential changes required to reflect the recommended amendments, including to the paraphrasing of policies in assessment rules (e.g. Rule 9.6.2.X).

Add a clause under the heading 'General assessment guidance' in assessment Rule 9.6.2.X as follows:

X. In assessing the effectiveness and efficiency of stormwater management, Council will consider any consequential effects that might arise, including, but not limited to:

1. effects on personal safety;
2. risks from surface water flooding ;
3. risks from property inundation; and
4. risks to the ability of Council to meet its consent conditions for public infrastructure, which could lead to effects on aquatic ecology.

4.3.3 Change F2-3 (Rules for residential stormwater management other than in large greenfield areas)

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS9.016	Marita Ansin-Johnson	Accept the change	Retain Change F2-3 (rules for residential stormwater management other than in large greenfield areas).
OS194.009	Barry James Douglas	Accept the change	Retain Change F2-3 (rules for residential stormwater management other than in large greenfield areas).
OS271.019	Otago Regional Council	Accept the change with amendments	Amend the Public Infrastructure definition by: 1. removing the word "may" to avoid doubt about whether drains and open channels are included or not; and 2. making it clear that the definition applies only to DCC infrastructure and does (not) extend to ORC assets.
OS189.019	Ryman Healthcare limited	Accept the change with amendments	Amend Policy 9.2.1.Z(a)(ii) to read: any adverse effects from an increase in discharge on the stormwater public infrastructure are no more than minor suitably attenuated;
OS205.019	Retirement Villages Association of New Zealand	Accept the change with amendments	Amend Policy 9.2.1.Z(a)(ii) to read: any adverse effects from an increase in discharge on the stormwater public infrastructure are no more than minor suitably attenuated;
OS203.005 OS206.016 OS230.007 OS264.004 OS270.008 OS282.015 OS291.012 OS295.006 OS300.008 OS76.014 OS79.008 OS150.008 OS286.007	Duplicate submissions submitted by Paterson Pitts Group and by Paterson Pitts Group on behalf of their clients	Accept the change with amendments	Amend Change F2-3 (Rules for residential stormwater management other than in large greenfield) provisions 9.2.1.Z, 9.2.1.z.b, and 9.6 so that the assessment of effects of stormwater is limited to a nominated distance from the point of development discharge and to clarify 9.2.1.Z.b to ensure that it does not always trigger the need for an assessment (as all stormwater flows end up in a river, lake, harbour or ocean and any such further, alternative, or consequential relief as may be necessary to fully give effect to this submission. Amend Policy 9.2.1.Z to remove any ambiguity about how the policy is to be interpreted.
OS202.004 OS220.006 OS263.006	Duplicate submissions by Terramark Consultancy and by Terramark on behalf of their clients	Accept the change with amendments	Amend Policy 9.2.1.Z to remove any ambiguity about how the policy is to be interpreted.

OS271.021	Otago Regional Council	Add a change	Amend Policy 9.2.1.Z(b) to provide that if the stormwater flows into any ORC drain or any part of ORC flood management protection scheme, there must be capacity and no adverse effect on the drain or scheme. If the stormwater discharges into any river, there must be no change in flows or levels as a result of the activity.
OS271.022	Otago Regional Council	Accept the change with amendments	Amend Assessment Rules 9.4.1.1, 9.5.3.11, 9.6.2.2, 9.8.2.5 and 27.11.3.1 to align with new Policy 9.2.1.Z, if amended in accordance with this submission.
OS271.020	Otago Regional Council	Accept the change	Retain the deletion of Policy 9.2.1.2.
OS271.023	Otago Regional Council	Accept the change with amendments	Amend assessment Rule 15.10.4.10, to clarify which part of 9.5 is specifically intended to be referenced.
OS271.024	Otago Regional Council	Accept the change with amendments	Amend assessment Rule 15.11.2.5.a, so that the precise part of Rule 9.6 which is relevant is specified
OS271.028	Otago Regional Council	Accept the change with amendments	Amend assessment Rule 15.11.4.1.C and Rule 15.11.4.1.X so that the matters of discretion include subdivision activities and stormwater management and the precise part of Rule 9.6 which is relevant is specified.
OS271.026	Otago Regional Council	Accept the change with amendments	Amend Rule 15.11.3.X to be precise which part of Rule 9.6 is relevant.
OS271.025	Otago Regional Council	Accept the change	Retain Rule 15.11.2.5.X as notified.
OS187.022	Dunedin City Council	Accept the change with amendments	Amend Change F2-3 to remove the term "(stormwater)" from the matter of discretion for "Effects on efficiency and affordability of infrastructure" at Rule 15.11.2.5.a, and such further, alternative, or consequential relief as may be necessary to fully give effect to this submission.
OS187.023	Dunedin City Council	Accept the change with amendments	Amend Change F2-3 to remove the term "(stormwater)" from the matter of discretion for "Effects on efficiency and affordability of infrastructure" at Rule 15.11.4.1.c, and such further, alternative, or consequential relief as may be necessary to fully give effect to this submission.
OS189.023	Ryman Healthcare Limited	Accept the change with amendments	Amend Rule 15.11.2.5(a) to read: Effects on efficiency and affordability capacity of infrastructure (stormwater).
OS205.023	Retirement Villages Association of New Zealand	Accept the change with amendments	Amend Rule 15.11.2.5(a) to read: Effects on efficiency and affordability capacity of infrastructure (stormwater)
OS205.020	Retirement Villages Association of New Zealand	Accept the change with amendments	Amend Rule 9.6.2.2(a) to read: Effects on efficiency and affordability capacity of infrastructure (stormwater).
OS189.020	Ryman Healthcare limited	Accept the change with amendments	Amend Rule 9.6.2.2(a) to read: Effects on efficiency and affordability capacity of infrastructure (stormwater).

Background

Change F2-3 is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
In light of the overall purpose above, this proposal reviews the methods used to manage stormwater effects within the existing residential areas (not large greenfield areas) to ensure that the provisions are clear, and the relevant strategic objectives are effectively and efficiently achieved.	Amends the assessment of activities in all locations for stormwater effects, including by amending policies in Section 9 and adding consideration of stormwater as part of the assessment of consents for multi-unit development.	• Amend the definition of public infrastructure • Add new Policy 9.2.1.Z • Delete Policy 9.2.1.2 • Amend the relevant assessment rules to replace or add reference to the new Policy 9.2.1.Z (rules 9.4.1.1, 9.5.3.11, 9.6.2.2, 9.8.2.5, and 27.11.3.1) • Add provisions to the new Rule 9.9.X • Amend Rule 15.10.4.10 (c and d) • Amend Rule 15.11.2.5.a • Add Rule 15.11.2.5.X • Add Rule 15.11.3.X • Amend Rule 15.11.4.1.c • Add Rule 15.11.4.1.X

I note that this change is linked with the previous change assessed in this report (Change F2-2) which includes provisions linking subdivision inside an NDMA to a requirement to provide a stormwater management plan. Therefore, consideration of Rule 9.9.X on stormwater management plans is addressed separately in Section 4.3.6 below. All other parts of Change F2-3 are addressed here.

Submissions received

38 original submissions were received on Change F2-3 with 5 in support of the changes and 33 seeking amendments to the changes. Reasons for general support of Change F2-3 by two submitters were not stated (Marita Ansin Johnson (S9.016) and Barry Douglas, S194.009). Reasons for Otago Regional Council's support of amendments to specific provisions were also not stated (S271.025 and S271.020).

Amendments sought to specific provisions affected by Change F2-3 are addressed under sub-headings below, along with associated summaries of evidence, assessments, and recommendations.

Definition of Public Infrastructure

The term 'public infrastructure' is widely used within Section 9, including in the provisions proposed through Variation 2. The proposed wording relating to 3 waters is as follows:

Public infrastructure consists of:

- *the public reticulated systems of pipes and associated accessory structures, and in the case of stormwater infrastructure may include drains and open channels owned and managed by DCC, that enable the management and distribution of stormwater, wastewater or water supply. This excludes any private stormwater, wastewater or water supply systems or structures; and...*

The Otago Regional Council (S271.019) seek the removal of the word 'may' in the definition and clarification that the definition applies only to DCC infrastructure and does not extend to ORC assets.

I recommend accepting the submission from the ORC and removing the word 'may' as it creates undesirable uncertainty.

However, I also recommend making changes to clarify that the definition does apply to ORC managed stormwater drains and other infrastructure. I note that while this recommendation is the opposite of the relief sought in the above submission point, it responds to other ORC submission points, such as that on Policy 9.2.1.Z discussed below (S271.021). This submission seeks better recognition of the impacts of stormwater on ORC drains and ORC's flood protection works. However, this does not make sense if the objective this policy sits under (Objective 9.2.1) excludes consideration of ORC assets, by definition. Therefore, the definition should be clarified to include ORC assets in line with other recommendations in this report.

Policy 9.2.1.Z

This provision sets the policy test for stormwater effects from multi-unit development, supported living facilities, subdivision, and development that contravenes the impermeable surfaces performance standard. It applies both within and outside the new development mapped area and, in part, replaces Policy 9.2.1.2 on impermeable surfaces. The proposed wording is as follows:

Only allow multi-unit development; supported living facilities; subdivision; or development that contravenes the impermeable surfaces performance standard, where:

- c. for stormwater generated by the activity (or future development enabled by a subdivision) that will flow through DCC stormwater public infrastructure at any point:
 - i. there is adequate capacity in the stormwater public infrastructure; or*
 - ii. any adverse effects from an increase in discharge on the stormwater public infrastructure are no more than minor; and**
- b. for stormwater generated by the activity (or future development enabled by a subdivision) that will flow through a private, Otago Regional Council, or natural/informal stormwater system at any point, that stormwater system has the capacity to absorb the additional stormwater with no more than minor adverse effects on other sites (public or private), including but not limited to, adverse effects from an increase in overland flow or ponding.*

The duplicate submissions lodged by Paterson Pitts Group and Terramark Limited on Policy 9.2.1.Z sought the following amendments:

- amendments to only apply the policy to contravention of the impermeable surfaces standard.
(Duplicate submissions by Paterson Pitts Group and by Paterson Pitts Group on behalf of their clients and Terramark Limited and Terramark on behalf of their clients: Tom and Loretta Richardson S203.005, Paterson Pitts Group S206.016, BA Building Ltd S230.007, D N Innovations Ltd S264.004, Doug Hall S270.008, Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch S282.015, Margaret Charles & Marguerita Lazar S291.012, HWH Properties Ltd S295.006, Kurt Bowen S300.008, Christopher Connor & Tina Prendergast S76.014, Glenelg Street Trust Board Incorporated S79.008, Giler and Katherine Wynn-Williams S150.008, Karen Knudson & Ross Brown S286.007, and Terramark Limited and Terramark on behalf of their clients Terramark Limited S220.006, K and L Accommodation Limited S202.004, GTJM Property Limited (Joe Morrison and Gill Thomas) S263.006.
- amendments to limit the assessment of effects to a nominated distance downstream from the point of development discharge (e.g. 2km), as any assessment further downstream generally becomes difficult to assess with any reliability and ultimately all stormwater flows will end up in a river, lake, harbour or ocean which if the second part of the policy is read literally would always trigger the need for an assessment.
(Duplicate submissions by Paterson Pitts Group and by Paterson Pitts Group on behalf of their clients: Tom and Loretta Richardson S203.005, Paterson Pitts Group S206.016, BA Building Ltd S230.007, D N Innovations Ltd S264.004, Doug Hall S270.008, Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch S282.015, Margaret Charles & Marguerita Lazar S291.012, HWH Properties Ltd S295.006, Kurt Bowen S300.008, Christopher Connor & Tina Prendergast S76.014, Glenelg Street Trust Board Incorporated S79.008, Giler and Katherine Wynn-Williams S150.008, Karen Knudson & Ross Brown S286.007.

ORC and other submissions on Policy 9.2.1.Z sought the following amendments:

- Otago Regional Council (S271.021) request that Policy 9.2.1.Z(b) is amended to clarify the relevant parts of the ORC stormwater system are drainage networks, flood protection schemes and rivers (into which most stormwater ultimately discharges). ORC considers that outcomes for any discharges into these parts of the ORC stormwater system are stated in the policy. The outcomes acceptable to ORC are that if the stormwater flows into any ORC drain or any part of ORC flood management protection scheme, there must be

capacity and no adverse effect on the drain or scheme, and if the stormwater discharges into any river there must be no change in flows or levels as a result of the activity. If changed, ORC seeks that consequential changes are made to reflect the amended Policy 9.2.1.Z (S271.022).

- Ryman Healthcare Ltd (S189.019) and Retirement Villages Association of NZ (S205.019) seek amendment to Policy 9.2.1.Z(a)(ii) to change the policy test from effects being ‘no more than minor’ to effects being ‘suitably attenuated’.

Expert evidence was provided by Mr Jared Oliver and Ms Jacinda Baker, DCC 3 Waters, on these submissions. Their evidence is summarised as follows:

- It is not reasonable or practical to specify a distance beyond which downstream effects will not occur and should not be considered. The nature of the catchment, the location of the site within the catchment, and the nature of the stormwater network itself will all influence potential downstream effects.
- The policy applies to the four separate activities listed (not just if the impermeable surfaces performance standard is contravened).
- In response to the ORC, the policy already requires there to be adequate capacity in ORC systems to absorb the additional stormwater and allows for ‘no more than minor effects’. Requiring ‘no effects’ is inappropriate as it is impossible to have no change in any water flows or levels.
- In response to the ORC, the terms ‘drainage system’ and ‘flood management protection scheme’ could be added to Policy 9.2.1.Z(b) to address the submitter’s concerns.

I recommend that Policy 9.2.1.Z be retained as notified with amendments to include ORC drains and ORC flood management protection schemes, including through amendments to the definition of ‘public infrastructure’, as discussed above. I do not recommend any changes in response to other submission points.

The reasons for this recommendation are:

- I accept the evidence provided by DCC 3 Waters, albeit that the recommended drafting is slightly different to that set out in their evidence;
- The purpose of applying the policy to the assessment of all four activities (and not just when the impermeable surfaces performance standard is contravened) is because:
 - Otherwise, there would be no assessment policy for stormwater effects from subdivision, especially outside the NDMA areas (but the outcomes are also relevant within NDMA areas). Similarly, there would be no assessment policy for stormwater effects from supported living facilities. I note that consideration of stormwater effects from subdivision and supported living facilities is already provided for in the Plan and deletion of this would not enable the relevant objectives to be achieved and this would be inappropriate;
 - As set out in the Section 32 Report⁴, stormwater effects from multi-unit development should be considered because the performance standard for impermeable surfaces alone is currently not enabling stormwater effects to be efficiently and effectively managed and Objective 9.2.1 and Objective 2.7.1 to be achieved;
- Regarding the policy test for effects in clause (a)(ii), I believe ‘no more than minor’ is an appropriate outcome test and aligns with the 2GP drafting protocol. The words suitably attenuated are subjective (e.g. suitable to whom?) and do not align with good practice policy wording. Implicit in this test is that attenuation could be proposed by the applicant to ensure that the outcome test is achieved (Ryman Healthcare Ltd (S189.019) and Retirement Villages Association of NZ (S205.019)).

References to Section 9 Assessment Rules in Section 15

The four activities covered by Policy 9.2.1.Z have associated assessment rules in Section 15 of the Plan (Residential provisions). These assessment rules apply the relevant matters of discretion, including effects on efficiency and affordability of infrastructure and effects of stormwater from future development. These link to Section 9 of the Plan (Public Health and Safety provisions) which contain the detail on infrastructure assessments. Throughout the Plan, these references only go to two numbering levels – e.g. Rule 9.5, rather than specifying the actual row in the assessment table – e.g. Rule 9.5.3.11.

⁴ Paragraph 524(d)-(e)

Submissions were received from Otago Regional Council requesting that each of the infrastructure assessment rules within Section 15 that link to Section 9 be more specific to the rule number that applies in Section 9 as the references currently (S271.023, S271.024, S271.026 and S271.028).

I recommend that no amendments be made, as the approach as notified is consistent with provisions throughout the Plan and the requirements of the Style Guide⁵. This approach is linked to the operational settings of the 2GP e-plan software, where each hyperlinked rule is located on a separate 'page' and has its own heading in the accordion menu. Adding further headings and pages can make the Plan more complicated to navigate. Other options to the current structure could be explored outside the Variation 2 process and would not require a Schedule 1 process to implement. In the meantime, the specific assessment rule that applies in any case is evident in the tables in Section 9 by referring to the content in the second column which details the performance standard that the row applies to.

Assessment Rules – Other Submissions

The following submissions were received seeking specific wording changes in assessment rules amended by Change F2-3:

- The DCC (S187.022 & S187.023) seeks amendments to the assessment rules for supported living facilities and all subdivision activities (rules 15.11.2.5.a and 15.11.4.1.c) to remove the specific reference to 'stormwater' in the matter of discretion because it has the effect of removing discretion to consider effects in terms of wastewater and water. Consideration of all three 'waters' is necessary for these activities (but not for contravention of the impermeable surfaces performance standard or multi-unit development);
- Ryman Healthcare Ltd (S189.019, S189.020 and S189.023) and Retirement Villages Association of NZ (S205.019, S205.020, and S205.023) seek amendments to the assessment rules for supported living facilities (rules 15.11.2.5(a) and 9.6.2.2(a) to change the matter of discretion to consider effects on the 'capacity' of infrastructure, rather than effects on the 'efficiency and affordability' of infrastructure.

I recommend amendments to Rule 15.11.2.5.a and Rule 15.11.4.1.c to delete "(stormwater)" from the matter of discretion because I agree with the reasons for the submissions from DCC (S187.022 & S187.023).

I recommend rejecting the submissions from Ryman and Retirement Villages Association because the matter of discretion as notified is consistent with that applied across provisions relating to 3 waters infrastructure. While considering the capacity of infrastructure networks is important, effects on the overall performance of infrastructure need to be considered and this is expressed in terms of the efficiency and affordability of infrastructure.

Consequential changes are not required in the associated assessment rules in Section 9 because there are two different assessment rules that apply there – one for stormwater (Rule 9.6.2.2) and one for wastewater and water supply (Rule 9.6.2.Z).

Recommended amendments:

Amend the definition of public infrastructure as follows:

Public infrastructure consists of:

- the public reticulated systems of pipes and associated accessory structures, and in the case of stormwater infrastructure may include drains, flood management schemes and open channels owned and managed by DCC or Otago Regional Council, that enable the management and distribution of stormwater, wastewater or water supply. This excludes any private stormwater, wastewater or water supply systems or structures; and
- ...

⁵ See Section 2.7.9 of the 2GP Style Guide https://www.dunedin.govt.nz/_data/assets/pdf_file/0007/715867/2GP-Style-Guide.pdf

Amend Policy 9.2.1.Z as follows:

Only allow multi-unit development; supported living facilities; subdivision; or development that contravenes the impermeable surfaces performance standard, where:

- a. for stormwater generated by the activity (or future development enabled by a subdivision) that will flow through DCC stormwater public infrastructure at any point:
 - i. there is adequate capacity in the stormwater public infrastructure; or
 - iii. any adverse effects from an increase in discharge on the stormwater public infrastructure are no more than minor; and
- b. for stormwater generated by the activity (or future development enabled by a subdivision) that will flow through a private, ~~Otago Regional Council~~, or natural/informal stormwater system or Otago Regional Council stormwater public infrastructure at any point, that stormwater system has the capacity to absorb the additional stormwater with no more than minor adverse effects on it or on other sites (public or private), including but not limited to, adverse effects from an increase in overland flow or ponding.

Consequential changes to assessment rules to reflect the amended wording of the Policy

Amend Rule 15.11.2.5.a and Rule 15.11.4.1.c to delete “(stormwater)” from the matter of discretion.

4.3.4 Alternative F2-Alt 2 – Performance standard for on-site stormwater detention, and other options

Submission point	Submitter Name	Support/Oppose	Summary of Submission
Submissions on Alternative F2-Alt2			
OS43.001	Peter Schwartz	Add a change	Add Alternative F2-Alt2 (Performance standard for on-site stormwater detention).
OS76.022 OS79.016 OS150.016 OS203.010 OS206.024 OS264.012 OS270.016 OS282.023 OS291.020 OS300.017	Duplicate submissions submitted by Paterson Pitts Group and by Paterson Pitts Group on behalf of their clients	Add a change	Add Alternative F2-Alt2 (Performance standard for on-site stormwater detention) to consider alternative methods of stormwater management such as installing detention tanks for stormwater detention onsite. This should be required on all but the new proposed greenfield development sites.
Submissions seeking other changes			
OS107.005	Penny Turner	Accept the change with amendments	Amend Rule 15.6.10 Maximum Building Site Coverage and Impermeable Surfaces, in the General Residential 1 Zone, to 45% (buildings and structures) and 75% (plus impermeable).
OS122.003	Peter Dowden	Add a change	Add a provision so all development must have the same or better stormwater runoff rate per unit of area as it had before development began.
OS208.002	Gisela Sole	Accept the change with amendments	Amend Change F2-3 (Rules for residential stormwater management other than in large greenfield areas) to consider effects of increased stormwater runoff in the gully between Prestwick Street and Monro Street. Particular consideration is needed to prevent pooling of water upstream (e.g. between 5 and 5A Monro Street) as a result of increased development in the area.
<u>Background</u> The overall purpose of the stormwater package is outlined in the summary of changes notified as part of Variation 2, as follows: <i>The purpose of this proposal is to improve the provisions in the Plan that ensure any actual or potential adverse effects of changes to stormwater arising from development are appropriately managed. This includes managing effects on both private and public stormwater systems and where stormwater may directly or indirectly lead to flood hazards elsewhere, including by considering how change in land use or subdivision may lead to development that creates stormwater effects.</i> Alternative F2-Alt-2 was one option assessed in the Section 32 Report to assist in achieving this purpose, but it was rejected and did not form part of the final Variation 2 proposals. The alternative examined whether to add a performance standard requiring the installation of on-site stormwater detention systems of a specified size per area of buildings or per area of impermeable surface. This option was rejected from further consideration because “setting standards accurately would require good baseline information and modelling for all catchments, which is currently not available” (page 113 Section 32 Report). Three other submissions were also received which fit within the broad purpose statement for Change F2, seeking various changes to stormwater provisions.			

Submissions requesting a performance standard for on-site stormwater detention

Eleven original submissions, 10 of which were duplicate submissions lodged by Paterson Pitts on behalf of their clients, sought reconsideration and introduction of Alternative F2-Alt-2 as part of Variation 2.

The reason for the submission from Peter Schwartz (\$43.001) is primarily due to him being an unwitting caretaker of a private piped watercourse passing through his property at 86 Cannington Road, Maori Hill. This private pipe receives stormwater from many other properties, particularly those on the opposite side of the road which are extremely susceptible to occasions of heavy flow. Mr Schwartz seeks a requirement for all new development to install an on-site stormwater detention system where stormwater could enter his private watercourse, as the 70% impermeable surface limit will probably not suffice. At the very least, Mr Schwartz seeks no increase in the stormwater inflow to his pipe because DCC declines to take responsibility for this part of the network.

The reason for the duplicate submissions was that the alternative would introduce a standardised approach, such as detention tanks, for onsite stormwater management. The submitters consider that the advantages of this would be:

- removes expensive assessment costs (such as those imposed by requiring a stormwater management plan under Change F2-3 and associated Rule 9.9.X),
- removes development delays,
- means that all houses are able to contribute to stormwater improvements,
- builds consistency into the building consent and resource consent processes,
- supports the use of detention tanks in a manner that is relatively cheap and easy to implement,
- allows for larger tanks where there are larger levels of impermeable surfaces; and
- establishes an approach that can be easily understood by many players in the housing market including architects, builders, plumbers, landowners etc.

Some submissions put forward examples of approaches used in Hamilton and Wellington to demonstrate how this could be done (e.g. S282.023 Survey and Spatial NZ), the documents being:

- The Three Waters Management Practice Note – HCC 05: Rainwater Reuse and Detention System, Revision 3 – 12/09/2016, by Hamilton City Council
- Managing Stormwater Runoff, The use of approved solutions for hydraulic neutrality, Version 3, August 2020, by Wellington Water.

I note that these documents are practice notes that sit outside the district plans.

(Duplicate submissions from Paterson Pitts Group and by Paterson Pitts Group on behalf of their clients Christopher Connor & Tina Prendergast S76.022, Glenelg Street Trust Board Incorporated S79.016, Giler and Katherine Wynn-Williams S150.016, Tom and Loretta Richardson S203.010, Paterson Pitts Group S206.024, D N Innovations Ltd S264.012, Doug Hall S270.016, Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch S282.023, Margaret Charles & Marguerita Lazar S291.020, Kurt Bowen S300.017).

Further submissions were received from Otago Regional Council opposing these submissions because stormwater management must be comprehensive and effective for the whole of a subdivision or development and this would be difficult to express via a performance standard (FS184.95 on S43.001 and FS184.420 to FS184.429 on the duplicate submissions in numerical order).

Expert evidence

Mr Jared Oliver and Ms Jacinda Baker, DCC 3 Waters, have reviewed the submissions and the examples of stormwater management provisions put forward. In summary, their evidence provides the following comments:

- Other local authorities that use a performance standard approach to allow independent on-site stormwater attenuation typically only do so for smaller developments (e.g. up to 10 properties in Wellington, and Hamilton has a graduated approach depending on the scale of development with outcomes set for less than 4 residential units only and some form of stormwater assessment required in all other cases).
- A similar approach could be considered for Dunedin (outside the Plan). However, it is likely that for larger developments (above a certain number of lots or area of land) the developer will still need to carry out their own stormwater management plan to determine the most appropriate response.
- If a similar approach were to be adopted by DCC, it would set an 'approved solution' for all development where up to 4 lots or dwellings are created. The potential approach could be:
 - A Practice Note to guide sizing of rainwater tanks providing detention and optional retention would be provided by DCC.
 - Sufficient information would need to be provided to DCC to demonstrate that the 'approved solution' has been complied with. Information requirements would be less than for a stormwater management plan.
 - A provision that recognises the use of a consent notice to require installation of the approved solution at the time of building consent would be acceptable.
 - An approved solution could be considered as part of a wider solution to managing stormwater run-off in developments greater than 4 lots or dwellings, although a full stormwater management plan would be necessary, and the preference is for integrated communal stormwater management systems.

Recommendation

I recommend retaining the rejection of Alternative F2-Alt2 at this stage for the following reasons:

- There is insufficient information available to support the development of a performance standard to integrate into the Plan as part of Variation 2. The need for solid evidence around sizing and other design specifications for stormwater detention tanks is important but cannot be provided in a timely manner for Variation 2;
- The documents provided by the submitter reflect guidance that sits outside the district plan. I accept the evidence from DCC 3 Waters that it may be possible to take the same approach for Dunedin for smaller infill subdivisions and developments/land use such as multi-unit development and supported living facilities on smaller sites, but this would need to be developed separately from the Variation 2 process;
- Amendments recommended for Change F2-3 and the proposed stormwater management plan provisions in Rule 9.9.X (see sections 4.3.4 and 4.3.6) will provide partial relief to the submitters by more clearly setting out a pathway for a less onerous assessment of stormwater effects from smaller scale subdivisions, land use and development, including assessment guidance that links to any practice guidance the DCC develops in the future.

The development of practice guidance on acceptable stormwater management solutions could involve input from developers, but a process for this would need to be set out by the DCC 3 Waters department in due course.

Other Requests for Amendments

Three submissions were received on matters that fall within the general purpose of the stormwater package. They are:

- Penny Turner (S107.005) seeks that the site coverage and impermeable surfaces limits for the General Residential 1 zone be increased to better achieve compact urban form. The increase sought is an additional 5% to each limit (to then be 45% and 75%, respectively).
- Gisela Sole (S208.002) seeks that stormwater runoff is managed in the residential area covered by General Residential 2 rezoning area Change IN09 (specifically at the gully between Prestwick Street and Monro Street). A similar submission point from this submitter (S208.003) has already been dealt with in the Intensification Rezoning Section 42A Report⁶.

⁶ See Section 4.2.10 of that report.

- Peter Dowden (S122.003) requests the addition of a provision so all development must have the same or better stormwater runoff rate per unit area as it had before development.

Mr Jared Oliver and Ms Jacinda Baker, DCC 3 Waters, provided expert evidence on the above submissions. In summary, they consider that:

- The impermeable surface limits should not be increased due to the existing issues with stormwater discharges in the city and the need for better stormwater management;
- An increase in impermeable surface limits would effectively change the levels of service and require infrastructure upgrades to accommodate the additional demand (cost implications have not been assessed);
- Regarding existing stormwater issues in the gully between Prestwick Street and Monro Street, it is noted that the proposed Plan rules will apply to new subdivision and development to assist with managing future stormwater effects. However, the laws of natural servitude also manage stormwater run-off to flow downhill following natural overland flow paths, such as into this natural gully. Waterways on private property are the responsibility of the property owner and DCC is unable to put a rule in the 2GP to prevent pooling in this location;
- Requirements for stormwater runoff rates to be managed have been applied to new development mapped areas as part of Variation 2. However, it would be inappropriate to extend this to all development because in some instances there will be no adverse effects from stormwater runoff generated and additional requirements would affect the viability of development in those areas.

I do not recommend any amendments in response to the submissions from Penny Turner (S107.005), Gisela Sole (S208.002), or Peter Dowden (S122.003) because I accept the evidence provided by DCC 3 Waters.

Recommended amendments:

None, but see the recommended amendments in Section 4.3.4 above and Section 4.3.6 below providing the option for stormwater management practice guidance to be developed.

4.3.5 Rule 9.9.X – Stormwater management plans

35. Proposed Rule 9.9.X includes drafting relating to both Change F2-2 (stormwater management in large greenfield areas) and Change F2-3 (stormwater management outside large greenfield areas). Submissions on Rule 9.9.X have been assessed together below to enable holistic consideration of Rule 9.9.X in light of both proposals. Submissions on other provisions amended by Change F2-2 and Change F2-3 have already been considered in two earlier sections of this report.

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS189.022	Ryman Healthcare limited	Accept the change	Retain Rule 9.9.X (special information requirements for stormwater management plans) as notified.
OS205.022	Retirement Villages Association of New Zealand	Accept the change	Retain Rule 9.9.X (special information requirements for stormwater management plans) as notified.
OS271.015	Otago Regional Council	Accept the change with amendments	Amend Rule 9.9.X (special information requirements for stormwater management plans) to ensure: - the requirements of 9.9.X are approved through a consent process in all the circumstances set out in policies 9.2.1.Z, 9.2.1.Y and 9.2.1.X - the activity status is at least restricted discretionary - ORC is recognised as an affected party to any consent application requiring a stormwater management plan - there an objective of, no change in hydrological characteristics of the site (including peak flow, volume of runoff, duration, and time of concentration) in all situations (not limited to the 1% AEP event) - bottom lines of no impact on the receiving environment, in particular people, property, river levels and flows, drainage schemes and flood protection schemes - where the discharge will affect, directly or indirectly, ORC infrastructure, the plan must ensure its capacity will not be exceeded and that the ORC assets can operate effectively and efficiently in all situations, not just 1% AEP events - provision is made for climate change including more frequent and more intense rainfall events - the system provides for stormwater runoff from all impermeable and semi-impermeable surfaces including roads, vehicles parks, access lots, driveways and the like - the stormwater plan is prepared by a chartered engineer with qualifications and experience in hydrology, hydraulics, and stormwater management, design and construction - water coming on to the site or ponding on site is accounted for in the plan and accommodated by the new stormwater infrastructure - stormwater quality is, as a minimum, no worse post development than pre-development - methods to achieve the prescribed quality of the stormwater discharged form part of the infrastructure - stormwater assets are vested in DCC (not private or commercial schemes) - the plan provides for a contingency, in the event that the system fails to achieve its objective of ensuring that there is no change in the hydrological characteristics of the site.

OS76.020 OS79.014 OS150.014 OS203.008 OS206.022 OS230.010 OS264.010 OS270.014 OS282.021 OS291.018 OS295.012 OS300.015	Duplicate submissions submitted by Paterson Pitts Group and by Paterson Pitts Group on behalf of their clients	Accept the change with amendments	Amend Rule 9.9.X (special information requirements for stormwater management plans) as follows: 1. Amend 9.9.X.1 to reflect recommended changes to policy 9.2.1.Y; 2. Amend 9.9.X.2 to remove clause (a), restrict clause (b) to only certain categories of NDMA's, remove clause (d) and (e). 3. Amend 9.9.X.3 to only apply to those New Development Mapped Areas that comprise greenfield sites and which have well understood stormwater constraints AND: • Amend clause (a) to read: be prepared by a suitably qualified and experienced engineer, surveyor or other land development professional chartered engineer or other suitably qualified person • Amend clause (c) to provide the ability for the developer to proceed with a stormwater solution on his/her land only, in the event that other owners do not agree to an overall NDMA solution, OR provide the ability for Council to compulsorily acquire land for infrastructure from other landowners and implement a cost-sharing agreement between the NDMA landowners using specially designed development contribution charges (allowing clawback of infrastructure costs by Council). 4. Amend 9.9.X.3.d as follows: • Clauses (i) and (ii) should be amended to require the calculation of pre-development flows at a 10% AEP for the critical storm duration of the development site (i.e not the critical storm duration of the broader catchment). The critical storm duration of the development site will be equal to the time of concentration (ToC) across the development site. Where the stormwater management plan relates to a greenfields NDMA site, then the critical storm duration of the broader catchment should also be assessed. • Amend clause (iii) as follows: "...for the purposes of this requirement 'critical storm duration' means the duration of rainfall event likely to cause the highest peak flows or water levels" 5. Amend clause 9.9.X.3.e as follows: "assess the difference between pre-development flows and post-development flows, taking into account the maximum impermeable surfaces permitted in the underlying zone or reasonable alternative if justification is provided and any proposed roading or accessways for the subdivision area (or in a new development mapped area, for the entire NDMA)" 6. Amend clause 9.9.X.3.i and 9.9.X.3.k by providing examples of methods for stormwater quality treatment and clarify the expected degree of success. and any such further, alternative, or consequential relief as may be necessary to fully give effect to this submission.
OS13.008 OS191.007 OS193.006 OS204.007 OS219.013 OS223.007 OS228.008 OS232.006 OS238.004 OS239.005 OS240.007	All submissions on Policy 9.2.1.Y lodged by Sweep Consultancy Ltd on behalf of their clients	If the change is not rejected, amend	... 3. Amend Rule 9.9.X.3.c as follows: for a new development mapped area (NDMA), address the whole NDMA area, and be submitted along with the written approval of all owners of land within the new development mapped area unless they are the applicant/s

OS241.007			
OS242.006			
OS247.007			
OS249.012			
OS305.007			
OS307.008			
OS308.007			

Background

As set out earlier, Rule 9.9.X on stormwater management plans forms part of both Change F2-2 (stormwater management in large greenfield areas) and Change F2-3 (stormwater management outside large greenfield areas).

I note that content similar to the requirements set out in proposed Rule 9.9.X has recently been subject to discussion in mediation on site-specific 2GP residential rezoning appeals. Otago Regional Council, Paterson Pitts Group and Sweep Consultancy have all been involved in those mediations. While the details of mediation discussions are confidential, recommendations made in this section have been reviewed by planners who have been involved in those processes.

Submissions received

33 original submissions were received on Rule 9.9.X, with 2 in support of the changes and the balance seeking changes. As for most of the proposed 3 waters provisions, a submission from Otago Regional Council seeks a more conservative approach to stormwater management as part of Rule 9.9.X, whereas other submitters representing the interests of developers and landowners seek a more lenient or flexible approach.

Please refer to the table above which lists the various amendments that each submitter seeks.

Reasons for the amendments sought include:

- For Otago Regional Council (S271.015) the submission relates to general concerns regarding undertaking its own statutory functions, powers and duties relating to land drainage, river management and flood protection, water quantity and water quality in water bodies and for the coastal environment, and how subdivision, use and development of land may impact on those resources.
- For submissions lodged by Paterson Pitts Group on behalf of clients, concerns that certain elements of the rule are unreasonable, incorrect and/or insufficiently defined and the need to enable the consideration of alternative stormwater solutions (duplicate submissions for Christopher Connor & Tina Prendergast S76.020, Glenelg Street Trust Board Incorporated S79.014, Giler and Katherine Wynn-Williams S150.014, Tom and Loretta Richardson S203.008, Paterson Pitts Group S206.022, BA Building Ltd S230.010, D N Innovations Ltd S264.010, Doug Hall S270.014, Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch S282.021, Margaret Charles & Marguerita Lazar S291.018, HWH Properties Ltd S295.012, Kurt Bowen S300.015).
- For submissions lodged by Sweep Consultancy on behalf of clients, concern regarding the difficulty of applying the rule in NDMA's with multiple landowners, where those landowners cannot agree to a stormwater management plan (18 duplicate submissions submitted on behalf of: Bill Morrison S13.008, Roger and Janine Southby S191.007, Ken Close S193.006, Ron Balchin S204.007, Gladstone Family Trust S219.013, Ed Stewardson S223.007, Wendy Campbell S228.008, Meats of New Zealand Limited S232.006, Willowcroft Limited S238.004, Dunedin City Baptist Church S239.005, Invermark Investments Ltd S240.007, Grant Motion S241.007, DDS Properties (2008) Limited S242.006, Cole Bennetts S247.007, Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd S249.012, Outram Developments Limited S305.007, Peter Doherty S307.008, CC Otago Limited S308.007).

Expert evidence sought

Mr Jared Oliver and Ms Jacinda Baker, DCC 3 Waters, have provided responses to submissions on Rule 9.9.X in their evidence. Some key points from their evidence are set out below:

Where a SWMP should be required

- Several submitters suggest the information specified by Rule 9.9.X.3 as needing to be provided in a stormwater management plan should only be required in New Development Mapped Areas that comprise greenfield sites and have well understood stormwater constraints.
- The proposed changes through Variation 2 reflect the approach that is already being taken by DCC and seeks to formalise it within the 2GP to provide clarity and certainty around when a SWMP may be required and what information would be expected to be included.
- The DCC does not currently have stormwater modelling and catchment information for all areas of the city so cannot confidently provide a map of where stormwater management is or isn't required. The proposed provisions of the 2GP provide flexibility for SWMPs to be required in specified circumstances and for case-by-case assessment to determine other circumstances where one is needed.
- The discharge of stormwater potentially traverses through public infrastructure, private waterways or drains, and into waterways or the coastal environment.
- DCC has no responsibilities for private stormwater watercourses or infrastructure and therefore has no control over ongoing required maintenance or clearing of watercourses or the size of pipes that are installed on private property.
- Good management of stormwater to minimise potential effects is generally required throughout the urban area but is more important in greenfield areas due to the significant change in flow and volume of stormwater between pre and post development. It is important that potential effects on other properties and on public infrastructure are minimised through appropriate management of stormwater.
- DCC has a role to have regard to any actual and potential effects of an activity through consideration of a resource consent application, and to give effect to the NPSFM. The NPSFM requires local authorities to "manage freshwater, and land use and development, in catchments in an integrated and sustainable way to avoid, remedy, or mitigate adverse effects, including cumulative effects, on the health and well-being of water bodies, freshwater ecosystems, and receiving environments."

Multiple landowners and funding mechanisms

- The funding of infrastructure is discussed separately in Section 4.1.2 above and is not reconsidered here.

Recommendation

I recommend that the submission points of the ORC and the duplicate submissions from Paterson Pitts Group and others be accepted in part and that the following changes be made:

- **Within** the new development mapped areas (large greenfield areas):
 - Amending Rule 9.9.X (primarily in response to submission points from the Otago Regional Council) generally in accordance with similar provisions that have been agreed through 2GP mediations for some residential rezoning appeals;
 - Amending Rule 15.4 so Otago Regional Council is an affected person for consent applications that require the submission of a stormwater management plan, in recognition of the collective responsibility for managing natural hazards between ORC and DCC (in response to submission points from Otago Regional Council);
- For **outside** of new development mapped areas, providing a less onerous information requirement in Rule 9.9.X. This would be supported by guidance that sits outside the Plan on generally acceptable solutions for different situations that DCC 3 Waters can develop and preferably make available before or closely after the Plan provisions have legal effect. This should address the concerns of the submitters by providing developers with a less onerous consenting process and more certainty about stormwater management systems that would be acceptable to DCC (for example on-site stormwater detention tanks in specified situations).
- Restructuring of the rule to make it clearer which approach applies in an NDMA and which approach applies outside an NDMA.

I note the following regarding submissions or parts of submissions I recommend rejecting:

- Regarding other points raised in ORC's submission (S271.015), based on the evidence provided by DCC 3 Waters, I consider that:
 - it is unnecessary to require submission of a stormwater management plan through consenting requirements for all activities covered by policies 9.2.1.Z, 9.2.1.Y and 9.2.1.X in order to ensure stormwater effects are appropriately managed; and
 - it is inappropriate and unreasonable under the RMA to seek no change in hydrological characteristics of a site through development, or to seek no impact on the receiving environment.
- Regarding submissions that raised concerns about obtaining agreement between landowners in NDMA's with multiple landowners, I have not recommended any changes to address this issue. This is because communal stormwater management systems, with as few separate systems as possible, will ensure the most efficient and cost-effective ongoing management of stormwater. Achieving agreement between landowners on the approach to stormwater management across an NDMA is the best way to enable this outcome. I note that DCC 3 Waters may be able to assist with situations where agreement is yet to be reached between landowners to support a good outcome. Where agreement cannot be reached, this will need to be considered through the consenting process.

I understand that the recommended amendments as they apply within an NDMA are generally consistent with stormwater management provisions recently agreed to as part of mediation on some 2GP residential rezoning appeals. These agreements involved the ORC and most of the consultants representing submitters on Change F2-2 for Variation 2. However, I note the following minor differences:

- 1) The clauses have been slightly reordered so that similar content is grouped together;
- 2) The term 'on-site' in relation to stormwater management systems has been replaced with 'integrated', as per other recommendations made in this report;
- 3) Outcome statements are not included in the information requirement but where content about outcomes was not already included it has been recommended to be added to the relevant assessment rule for activities in an NDMA (Rule 9.6.2.X).

Recommended amendments:

Amend Policy 9.2.1.Y so it refers to multi-unit development, supported living facilities and development that contravenes Rule 9.3.7.AA – see drafting in Section 4.3.3 above.

Amend Rule 9.6.2.X so it also applies to multi-unit development, supported living facilities and development that contravenes Rule 9.3.7.AA.

Amend Rule 9.9.X as follows:

9.9.X Stormwater management plans

1. ~~Application for subdivision – In a new development mapped area, applications for the following activities must include a proposed stormwater management plan that addresses the whole NDMA, demonstrates how Policy 9.2.1.Y will be achieved, and is prepared in accordance with clause 3 of this rule, unless such a plan has already been approved as part of an earlier subdivision or land use consent:~~
 - a. subdivision;
 - b. multi-unit development;
 - c. supported living facilities; or
 - d. development that contravenes Rule 9.3.7.AA (service connections – stormwater management for development); and {Change F2-2}
2. ~~Outside a new development mapped area, Applications for consent that include the following activities must provide details of how stormwater will be managed in accordance with clause 4 of this rule and may be required to provide a proposed stormwater management plan that demonstrates how Policy 9.2.1.Y will be achieved:~~
 - a. subdivision that may lead to new residential development (outside a new development mapped area);
 - b. ~~development in a new development mapped area that contravenes Rule 9.3.7.AA (service connections – stormwater management);~~

- c. ~~development that contravenes~~ development that contravenes the impermeable surfaces performance standard;
- d. multi-unit development; or
- e. supported living facilities. {Change F2-3}

3. Stormwater management plans required for new development mapped areas must meet the following requirements:

- ~~a. be prepared by a chartered engineer or other suitably qualified person;~~
- ~~b. be of a level of detail commensurate with the scale of the activity, complexity of stormwater management issues, and potential for adverse effects from stormwater; {Change F2-2 & Change F2-3}~~
- ~~c. for a new development mapped area (NDMA), address the whole NDMA area, and be submitted along with the written approval of all owners of land within the new development mapped area unless they are the applicant/s. {Change F2-2}~~
- d. assess pre-development flows and post-development flows, generally based on the following rainfall events:
 - ~~i. for primary infrastructure, a 10% annual exceedance probability (AEP) for the critical storm duration for the NDMA and the critical storm duration and the catchment upstream of the point of discharge; and~~
 - ~~ii. for secondary flow paths, a 1% AEP for the critical storm duration for the NDMA and the critical storm duration for the catchment upstream of the point of discharge;~~
 - ~~iii. for the purposes of this requirement, 'critical storm duration' means the duration of rainfall event likely to cause the highest peak flows or water levels;~~
 - ~~iv. for the purposes of this requirement, 'primary infrastructure' includes both open and closed conduits designed to contain the flows generated by the 10% AEP rainfall event;~~
 - ~~v. for the purposes of this requirement, 'secondary flow paths' means the flow path over which surface water will flow if the primary flow path becomes overloaded or inoperative and consists of overland flow paths with sufficient capacity to transfer the flows generated by rainfall events up to 1% AEP. Secondary flow paths should be aligned with natural flow paths and located on public land where possible. If located in private property, 1% AEP secondary flows should be through primary infrastructure unless protected by an easement;~~
- ~~e. assess the difference between pre-development flows and post-development flows, taking into account the maximum impermeable surfaces permitted in the underlying zone and any proposed roading or accessways for the subdivision area (or in a new development mapped area, for the entire NDMA);~~
- ~~f. specify the design and location of any on-site stormwater management systems to accommodate the calculated difference in flows;~~
- ~~g. where relevant, specify the design and location of secondary flow paths;~~
- ~~h. specify any upgrades to stormwater public infrastructure, or other infrastructure, that will be used to add capacity where it is required;~~
- ~~i. the stormwater management system design should allow for stormwater quality treatment to reduce potential contaminants that the site and development may generate;~~
- ~~j. areas requiring stormwater quality treatment include trafficked areas such as roads, driveways and car parks. Roof and building areas should not require stormwater quality treatment providing they are constructed with inert building products which avoid exposed metal surfaces;~~
- ~~k. stormwater quality treatment devices shall target the removal of 75% total suspended solids (TSS) on a long term average basis and consider the avoidance or minimisation of thermal loading effects;~~
- ~~l. the stormwater management design should consider the use of low impact design features, for example:~~
 - ~~i. grassed/landscaped swales and other vegetation areas;~~
 - ~~ii. infiltration trenches/bioretention systems;~~
 - ~~iii. storage ponds/wetlands/sediment ponds;~~
 - ~~iv. rainwater tanks harvesting and reuse;~~
 - ~~v. rain gardens, green roofs; or~~

- ~~vi. porous surface treatments;~~
- ~~m. where low impact design features are inadequate to address stormwater discharge in a way that meets Policy 9.2.1.Y, consider the use of detention tanks;~~
- ~~n. for larger subdivisions, the design should incorporate consideration of how stormwater management areas can be integrated into reserves and recreation spaces;~~
- ~~o. for larger subdivisions, the design proposal should demonstrate how the integrity of the stormwater mitigation and management measures will not be compromised during and after subdivision (for example, avoiding premature contamination of devices during the construction of houses and ensuring that open drains that form part of the system will not be blocked or altered). {Change F2-2 & Change F2-3}~~
- a. The stormwater management plan must include provision of an integrated stormwater management system, that is designed for the whole structure plan mapped area and is installed in full or in planned stages prior to development.
- b. The stormwater management plan must ensure that stormwater will be managed for both the current climatic conditions and climatic conditions based on climate change predictions.
- c. The integrated stormwater management system must ensure:
 - i. there is no increase in the pre-development peak stormwater discharge rate from the site into the stormwater public infrastructure, or into a private, Otago Regional Council, or natural/informal stormwater system (at any point); or,
 - ii. where this is not practicable, any adverse effects from an increase in discharge on the stormwater system are no more than minor.
- d. The stormwater management plan must include stormwater detention infrastructure that is designed to temporarily store and release flows from a generated 1% AEP rainfall event, such that peak pre-development flows are not exceeded in the post-development condition.
- e. The stormwater management plan must:
 - i. include the use of low-impact (or water-sensitive) design features, which may include features such as:
 - 1. grassed/landscaped swales and other vegetation areas;
 - 2. infiltration trenches/bio-retention systems;
 - 3. storage ponds/wetlands/sediment ponds;
 - 4. rainwater tanks- harvesting and reuse;
 - 5. rain gardens, rooftop greening and planting, and
 - 6. porous surface treatments; and
 - 7. consideration of the existing natural topography and the natural course of water flow (overland flow paths) through the design of the subdivision;
 - ii. and
 - ii. consider whether stormwater management areas can be integrated into reserves and recreation spaces.
- f. The stormwater management plan must include an assessment of the difference between pre-development peak flows and post-development peak flows (with and without mitigation) over a range of event durations, taking into account the maximum impermeable surfaces permitted in the District Plan zone for the mapped area (and including any other development restrictions resulting from any other rules in the District Plan or legal instruments registered on the title(s) for the mapped area). This assessment must meet the following criteria:
 - i. The assessment of pre-development and post-development flows and detention volumes must be based on the 10% and the 1% annual exceedance probability (AEP) rainfall events, covering durations from the mapped area's own critical duration to the critical duration of the catchment upstream of the point of discharge (unless agreed otherwise with the DCC, for example where direct discharge to the coastal environment is feasible).
 - ii. For the purposes of this requirement, 'critical duration' means the duration of rainfall event likely to cause the highest peak flows or water levels.
 - iii. The assessment must take account of climate change, using the climate adjustment rainfall sourced from HIRDS version 4 using RCP 8.5 2081-2100 values (or an alternative source approved by DCC).

- iv. Where any proposed attenuation system is intended to vest as public infrastructure, the design must incorporate an adjustable outlet mechanism such that the present day peak discharge flow rate from the Land is not exceeded as a result of the development but that the outlet can be progressively adjusted for future climate change discharge rates up to the fully developed stormwater management system design capacity.
- v. For the sake of clarity, the stormwater management plan does not need to avoid volume increases.
- g. The stormwater management plan must:
 - i. include the design and location of 'primary infrastructure' ('primary infrastructure' includes both open and closed conduits and must be designed to contain the flows generated by the 10% AEP rainfall event);
 - ii. include the design and location of 'secondary flow paths', with and without blockage of the primary stormwater system, through the development to the downstream boundary. 'Secondary flow paths' means the flow path over which surface water will flow if the primary flow path becomes overloaded or inoperative and consists of overland flow paths with sufficient capacity to transfer the flows generated by rainfall events up to the 1% AEP event. Secondary flow paths shall be clearly identified, and where possible aligned with natural flow paths and located on public land. If located in private property, 1% AEP secondary flows should be through primary infrastructure unless protected by an easement. The stormwater management plan must demonstrate that secondary flows at the development's upstream and downstream boundaries are not changed or adversely affected;
 - iii. propose stormwater management infrastructure that is designed to enable safe operation in super-design conditions (for a 0.5% AEP rainfall event, but a greater rainfall event can be used if the developer chooses to do so). Safe operation means without catastrophic, rapid or structural failure. This is to ensure that the proposed stormwater management infrastructure has a fail-safe mechanism. This does not mean the stormwater infrastructure is to be designed to retain the volume of stormwater for a 0.5% AEP rainfall event;
 - iv. provide location and design details of stormwater management systems, including detention infrastructure required to meet clause d above;
 - v. demonstrate how the integrity of the stormwater mitigation and management measures will not be compromised during and after subdivision (for example ensuring that open drains that form part of the system will not be blocked or altered);
 - vi. include a risk based assessment to determine to what extent measures (if any) are needed to manage flows downstream of the land. The stormwater management plan must demonstrate that the proposed stormwater mitigation and management measures will not create or exacerbate adverse effects that are more than minor off-site. This includes consideration of cumulative effects;
 - vii. demonstrate that erosion and sedimentation will be managed effectively within the mapped area during earthworks and as the mapped area is developed, by taking measures and installing devices, where necessary, to
 - 1. divert clean runoff away from disturbed ground;
 - 2. control and contain stormwater run-off;
 - 3. avoid sediment laden run-off from the mapped area; and
 - 4. protect existing drainage infrastructure sumps and drains from sediment run-off; and
 - viii. include the design and location of stormwater quality treatment that demonstrates the expected quality of stormwater leaving the specified system and its treatment of at least the 'first flush' volume (90th percentile daily rainfall depth) or flow rate (90th percentile rainfall intensity) in accordance with best practice techniques for at least 75% Total Suspended Solids (TSS) removal on a long-term average basis.
- h. If a stormwater management system cannot practicably be designed to meet one or more of clauses d to h above in relation to additional stormwater discharge, the subdivision or land use consent application must be accompanied by an assessment of the broader catchment to determine whether design solutions external to the mapped area are available to manage the additional stormwater discharges as a result of the development on the mapped area.
- i. The stormwater management plan, and the design of the integrated stormwater management system, must:
 - i. be prepared by a chartered professional engineer or other suitably qualified person who has (or can call on) experience in hydrology, hydraulics, stormwater design, flood risk management and construction management; and

- ii. be submitted along with the written approval of all landowners within the mapped area, unless they are the applicant/s.
- 4. Stormwater management information required outside a **new development mapped area** must demonstrate how Policy 9.2.1.Z will be achieved by:
 - a. providing a stormwater management proposal prepared by a suitably qualified person, which:
 - i. contains a level of detail commensurate with the scale of the subdivision, land use or development activity;
 - ii. reflects the scale of any stormwater management issues in the catchment and any capacity constraints in the public infrastructure network; and
 - iii. where available, follows any relevant guidance on acceptable stormwater management solutions for similar activities in a similar context; and
 - b. for subdivision activities that result in more than six lots, or subject sites greater than 1 hectare, providing a full stormwater management plan where requested by Council.

Add a clause to Note 9.9.XA as follows:

- 6. For consent applications in a **new development mapped area** that require the submission of a stormwater management plan, Otago Regional Council will be considered an affected person in accordance with Rule 15.4.5.X.

Add clause X to Rule 15.4.5 as follows:

- 5. With respect to resource consent applications for the following activities, the Otago Regional Council will be considered an affected person in accordance with section 95B of the RMA where its written approval is not provided:
 - 1. activities in the hazard 1 or hazard 1A (flood) overlay zones; ~~and~~
 - 2. activities in swale mapped areas; and
 - X. activities in a **new development mapped area** where a stormwater management plan is required to be submitted with a resource consent application in accordance with Rule 9.9.X.

4.3.6 Change F2-5 (Impermeable surfaces permitted baseline)

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS271.031	Otago Regional Council	Accept the change with amendments	Amend Change F2-5 (Impermeable surfaces permitted baseline) Rule 15.4.X so that it applies to both development and subdivision.
OS194.007	Barry James Douglas	Reject the change	Remove Change F2-5 (Impermeable surfaces permitted baseline).
OS283.009 OS76.004 OS79.003 OS150.003 OS203.011 OS206.009 OS230.004 OS260.014 OS264.013 OS270.003 OS282.024 OS286.013 OS290.012 OS291.021 OS295.003 OS296.009 OS300.018	Duplicate submissions submitted by Paterson Pitts Group and by Paterson Pitts Group on behalf of their clients	Reject the change	Remove Rule 15.4.X (Impermeable surfaces permitted baseline).
OS220.002 OS202.003 OS263.003	Duplicate submissions by Terramark Consultancy and by Terramark on behalf of their clients	Reject the change	Remove Rule 15.4.X (Impermeable surfaces permitted baseline).

Background

The overall purpose of the stormwater package, which includes Change F2-5, is outlined in the summary of changes notified as part of Variation 2, as follows:

The purpose of this proposal is to improve the provisions in the Plan that ensure any actual or potential adverse effects of changes to stormwater arising from development are appropriately managed. This includes managing effects on both private and public stormwater systems and where stormwater may directly or indirectly lead to flood hazards elsewhere, including by considering how change in land use or subdivision may lead to development that creates stormwater effects.

Change F2-5 is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
In light of the overall purpose above, this proposal considers whether guidance on the application of the permitted baseline with respect to the performance standard for maximum building site coverage and impermeable surfaces (Rule 15.6.10) needs to be included in the plan.	Adds a permitted baseline rule which directs that Council will generally not consider compliance with the maximum building site coverage and impermeable surfaces performance standard (Rule 15.6.10) as part of the permitted baseline when considering applications for subdivision.	Add a new permitted baseline rule at Rule 15.4.x.

Change F2-5 proposed to add clause X after clause 4 of Rule 15.4 Notification, as follows:

X. With respect to sections 95D(b) and 95E(2)(a) of the RMA, Council will not consider potential permitted new buildings and structures or compliance with the maximum building site coverage and impermeable surfaces performance standard (Rule 15.6.10) as part of the permitted baseline in considering the effects of subdivision activities on stormwater management in the residential zones.

The Permitted Baseline

I note that Section 15.6.2.2 of the Section.32 Report⁷ outlines how the permitted baseline works. In summary, Dunedin City Council may choose to disregard adverse effects which are permitted by a rule or a national environmental standard when assessing a resource consent application. It may be inappropriate to apply the permitted baseline where the permitted effect would only arise as a result of a fanciful activity, or where its application may have unintended or undesirable consequences for matters set out in Part 2 of the Act.

This proposed provision is similar to others already included in the Plan which clarify how this discretionary assessment will generally be applied.

Submissions received

22 original submissions were received on Change F2-5 with 21 in opposition (mostly duplicate submissions lodged by surveying firms on behalf of clients) and one from Otago Regional Council in support of the change broadly but which seeks changes so that the provision also applies to development (S271.031).

Otago Regional Council also opposed the submissions which sought removal of Rule 15.4.X (FS184.68, FS184.408, FS184.410, FS184.407, FS184.409, FS184.404, FS184.405, FS184.406, FS184.45, FS184.45, FS184.414, FS184.415, FS184.416, FS184.417, FS184.403, FS184.411, FS184.401, FS184.412, FS184.402 and FS184.400).

Elizabeth McColl (FS86.3) opposed the submission by K and L Accommodation Limited (S202) and Maria Larcombe (FS158.9) supported the submission of Max Hope Trust (S283).

The key reason for opposition to Change F2-5 by submitters represented by surveying firms was that they consider the approach to be flawed and inconsistent with recent consent decisions made independently and in accordance with the RMA, where the permitted baseline with respect to the impermeable surfaces performance standard has been applied. (Duplicate submissions from Paterson Pitts Group and Paterson Pitts Group on behalf of their clients Max Hope Trust S283.009, Christopher Connor & Tina Prendergast S76.004, Glenelg Street Trust Board Incorporated S79.003, Giler and Katherine Wynn-Williams S150.003, Tom and Loretta Richardson S203.011, Paterson Pitts Group S206.009, BA Building Ltd S230.004, Lloyd Morshuis (Morclark Developments) S260.014, D N Innovations Ltd S264.013, Doug Hall S270.003, Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch S282.024, Karen Knudson & Ross Brown S286.013, Victoria Jane and Pera Paul Manahera Eden S290.012, Margaret Charles & Marguerita Lazar S291.021, HWH Properties Ltd S295.003, Jason and Margaret Hewlett S296.009, Kurt Bowen S300.018 AND Terramark Limited S220.002, K and L Accommodation Limited S202.003, GTJM Property Limited (Joe Morrison and Gill Thomas) S263.003).

Expert evidence sought

Mr Jared Oliver and Ms Jacinda Baker, DCC 3 Waters, have provided evidence regarding these submissions (see their evidence). In summary, they consider that:

- Some subdivision applicants have been relying on applying the permitted baseline for the impermeable surfaces performance standard on the basis that development that complies with the density performance standard could occur as a permitted activity without subdivision so there should be no stormwater management requirements through the subdivision process (even where DCC has identified downstream stormwater issues and sought on-site management of stormwater to manage effects).
- There is a misconception in the development community that impermeable surface levels have been set at a level for which there is capacity in the stormwater network to accept all stormwater produced if every site is developed to this level, which is not the case.
- The impermeable surface levels have been set as a blanket rule regardless of location and they do not account for the reality that different areas of the stormwater network, both private and public infrastructure has varying capacity levels, and that stormwater flooding issues vary in their location as a result of the varying capacity of the infrastructure.
- The impermeable surface levels were designed to work in tandem with a requirement for stormwater management plans for subdivisions and on-site management of stormwater. Just because impermeable surface limits are not always contravened does not mean that consideration of effects and on-site stormwater management are not required where there may be potential downstream effects.

Recommendation

I recommend retaining Change F2-5 as notified because I accept the evidence provided by DCC 3 Waters. I also agree with and reiterate the assessment of Change F2-5 set out in the Section 32 report⁸, and note the following:

- The current limits for impermeable surfaces set in Rule 15.6.10 were arrived at to 'reflect a fair balance between urban land use needs, existing site coverage trends and manageable stormwater volume and intensity' (paragraphs 301-302 of the 2GP Residential Zones Decision of Hearings Panel, 7 November 2018). It was considered at the 2GP hearing that the allowance for impermeable surfaces would not be fully taken up in many instances and this would ensure that, on average, overall impermeable surface coverage would not adversely affect stormwater infrastructure.
- The need to assess likely stormwater effects as part of the subdivision process is reflected in the existing assessment rules for subdivision in the Plan (see existing Rule 9.6.2.4) and reinforced by the approach taken in Variation 2.

Regarding the submission from Otago Regional Council (S271.031) to apply the rule to development also, I note that development activities are subject to the impermeable surfaces performance standard. Therefore, the request does not make sense because the activity would already be required to comply with the standard and the permitted baseline test would not be relevant.

Recommended amendments:

None.

⁷Variation 2 – Additional Housing Capacity Section 32 Report (February 2021), sub-section 15.6.2.2 Permitted baseline and the 2GP, pages 110-111, paragraphs 542-546

⁸See Variation 2 Additional Housing Capacity Section 32 Report (February 2021) page 109

4.3.7 Change F2-7 (Stormwater constraint mapped area method for GR2)

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS9.014	Marita Ansin-Johnson	Accept the change	Retain Change F2-7 (stormwater constraint mapped area method).
OS194.010	Barry James Douglas	Accept the change	Retain Change F2-7 (stormwater constraint mapped area method).

Background

Change F2-7 is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
In light of the overall purpose above, this proposal considers the need for provisions in the Plan for selected areas of General Residential 2 Zone (GR2) rezoning proposed through Variation 2 to ensure that no increase in stormwater effects is provided for as part of the rezoning without a resource consent being sought.	Adds a new stormwater constraint mapped area to apply to the identified areas of new GR2 rezoning where it is necessary to hold the impermeable surfaces limit at that for the General Residential 1 Zone (70%), rather than enable the increase to 80% provided by the General Residential 2 Zone provisions, due to known stormwater constraints.	- Amend Policy 2.6.2.3 - Amend zone description for General Residential 2 Zone at Section 15.1.1.2 - Consequential change to Rule 15.6.10.b - Add a new Rule 15.6.10.x

Submissions received

Two original submissions were received on Change F2-7 in support of the changes, but no reasons were given. Further submissions in support were received from Otago Regional Council (FS184). Broad submissions were also received on all 3 Waters changes, which covers Change F2-7 (see Section 4.1.3). However, no specific matters were raised that need to be addressed here.

Submissions regarding issues with stormwater management in proposed General Residential 2 rezoning areas have already been addressed in the Section 42A Report on Intensification Rezoning. Other issues relating to residential character and amenity and loss of biodiversity arising from proposed General Residential 2 rezoning areas were also traversed in that report and at the hearing and have some connection with the purpose of the impermeable surfaces standard. If the Panel are of a mind to amend the impermeable surfaces performance standard for any reason, there will be a need to consider how those changes impact Change F2-7.

Recommendation:

I recommend that Change F2-7 be retained as notified. I have considered the broad submissions received on all 3 Waters changes and consider that no amendments are required. I agree with the assessment of Change F2-7 provided at pages 112-113 of the Section 32 Report.

Recommended amendments:

None.

4.3.8 Alternative F2-Alt1 – Reducing impermeable surface limits

36. This alternative to changes included in the stormwater package reviewed whether to reduce the impermeable surface limits set in Rule 15.6.10 to a level at which the effects on the stormwater network would be acceptable if all sites were developed to the maximum permitted impermeable surface coverage.
37. No submissions were received on this alternative directly, although I note several submissions on rezoning proposals raised concerns about stormwater if rezoning were to proceed. I also note that submissions seeking substantive changes to other elements of the stormwater provisions package (particularly the broad submission from Otago Regional Council) create a 'scope envelope' to consider the package as a whole to ensure its overall effectiveness and efficiency in achieving the objectives of the Plan.
38. Mr Jared Oliver's evidence states that if the requirement for stormwater management plans were to be removed outside of NDMA's, an option for achieving adequate stormwater management would be via the impermeable surfaces rule only. This would require a reduction in the impermeable surface limits that would need to be tailored to the various parts of each catchment, depending on the existing constraints in the public and private parts of the network. Substantial time and money would be required to determine appropriate reductions for this to be effective and different standards would need to apply in different parts of the city. It is also noted that the impermeable surface limits only act to control stormwater quantity, not quality.
39. I note that my recommendations for Rule 9.9.X and Change F2-3 are for Council to retain the ability to request stormwater management plans in some instances outside an NDMA (for example, where there are known downstream issues or constraints in the network). Therefore, I consider it unnecessary to reduce the impermeable surface limit at this time. I also agree with the evidence from DCC 3 Waters that substantial work would be required to support a reduction in the impermeable surface performance standard limits, and this would not be achievable in a timely manner to support Variation 2.

4.4 Wastewater package

4.4.1 Broad submission

Submission point	Submitter Name	Support/Oppose	Summary of Submission
S69.005	Name Withheld C	Reject the change	Remove changes related to the wastewater package proposed as part of Variation 2.
<u>Submissions received</u> 1 original submission was received broadly opposing the wastewater package of changes in Variation 2, but this appears to relate exclusively to any wastewater effects that might arise from a proposed greenfield rezoning at Abbotsford (GF05). The submission itself does not directly engage with the changes to the Plan provisions proposed under Change F3. A further submission was received from the Otago Regional Council (FS184.104) in opposition to the submission because the infrastructure provisions should be retained but amended in accordance with ORC's primary submission. <u>Recommendation</u> I recommend retaining the wastewater package of changes as notified (Change F3-2 and Change F3-4), with any amendments in response to other submission points, as outlined in the following two sections of the report. <u>Recommended amendments:</u> None.			

4.4.2 Change F3-2 (NDMA - Wastewater detention in selected large greenfield areas)

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS271.030	Otago Regional Council	Accept the change with amendments	Amend Change F3-2 (Wastewater detention in selected large greenfield areas) to ensure: "communal" is deleted and replaced with 'integrated' in reference to wastewater detention systems - wastewater detention systems are vested with the DCC.
OS13.009 OS191.008 OS193.007 OS204.008 OS219.014 OS223.008 OS228.009 OS232.007	Duplicate submissions submitted by Sweep Consultancy Limited on behalf of their clients: Bill Morrison, Roger and Janine Southby, Ken Close, Ron Balchin,	Accept the change with amendments	Amend Policy 2.7.1.2.Y (provisions that relate to new development mapped area) as follows: Provide a claw-back mechanism whereby when the developer of infrastructure in a new development mapped area with multiple owners vests that infrastructure in Dunedin City Council, Dunedin City Council pays that developer for the infrastructure (less than the developer's pro rata share) and Dunedin City Council claws-back the cost of that infrastructure via development contributions as the other land within that New Development Mapped Area comes online; AND

OS238.003 OS239.004 OS240.008 OS241.008 OS242.007 OS247.008 OS249.013 OS305.008 OS307.009 OS308.008	Gladstone Family Trust, Ed Stewardson, Wendy Campbell, Meats of New Zealand Limited, Willowcroft Limited, Dunedin City Baptist Church, Invermark Investments Ltd., Grant Motion, DDS Properties (2008) Limited, Cole Bennetts, Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd, Outram Developments Limited, Peter Doherty and CC Otago Limited.		1. Provide a mechanism whereby the Dunedin City Council can compulsorily acquire easements in New Development Mapped Areas for new infrastructure. and such further, alternative, or consequential relief as may be necessary to fully give effect to this submission.
OS189.026 OS205.026	Ryman Healthcare limited, Retirement Villages Association of New Zealand	Accept the change with amendments	Amend Rule 15.11.5.Z to remove the focus on "efficiency" and clarify that the focus should be on the capacity of infrastructure and the ability to suitably attenuate any adverse effects.
OS189.024 OS205.024	Ryman Healthcare limited, Retirement Villages Association of New Zealand	Accept the change with amendments	Amend Rule 9.6.2.Y to remove the focus on "efficiency", which will create interpretation issues, and clarify that the focus should be on the capacity of infrastructure and the ability to suitably attenuate any adverse effects.
OS291.019 OS76.021 OS79.015 OS150.015 OS203.009 OS206.023 OS230.011 OS264.011 OS270.015 OS282.022	Duplicate submissions from Paterson Pitts Group and on behalf of their clients: Margaret Charles & Marguerita Lazar, Christopher Connor & Tina Prendergast, Glenelg Street Trust Board Incorporated,	Accept the change with amendments	Amend Rule 9.9.Y as follows: 1. Rule 9.9.Y.1 should only refer to those New Development Mapped Areas that do not have existing residential connection rights (at the density currently allowed). 2. Amend 9.9.Y.2 as follows: "The wastewater management plan must be prepared by a <u>suitably qualified and experienced engineer or other land development professional</u> chartered engineer and meet the following..." 3. Amend 9.9.Y.3 to allow alternative options if the written approval of all landowners cannot be obtained i.e. with onsite solutions or for the council to acquire land for infrastructure. and any such further, alternative, or consequential relief as may be necessary to fully give effect to this submission.

OS295.013 OS300.016 OS286.006	Giler and Katherine Wynn-Williams, Tom and Loretta Richardson, BA Building Ltd, D N Innovations Ltd, Doug Hall, Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch, HWH Properties Ltd, Kurt Bowen, and Karen Knudson & Ross Brown.		
OS76.013 OS79.007 OS150.007 OS203.006 OS206.015 OS264.003 OS270.007 OS282.014 OS291.011 OS295.005 OS300.009 OS230.006	Duplicate submissions from Paterson Pitts Group and on behalf of their clients: Christopher Connor & Tina Prendergast, Glenelg Street Trust Board Incorporated, Giler and Katherine Wynn-Williams, Tom and Loretta Richardson, BA Building Ltd, D N Innovations Ltd, Doug Hall, Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch, Margaret Charles & Marguerita Lazar, HWH Properties Ltd, and Kurt Bowen.	Accept the change with amendments	Retain Policy 9.2.1.BB provided that the assumption that the new development mapped areas have been correctly assessed by Council in respect of wastewater requirements.
OS189.025 OS205.025	Ryman Healthcare Limited'	Accept the change	Retain Rule 9.9Y as notified.

	Retirement Villages Association of New Zealand		
OS187.025	Dunedin City Council	Accept the change with amendments	Review whether a service connection performance standard for development should be added under Rule 15.6 and Rule 9.3.7 regarding connection to a communal wastewater detention system by any development in a new development mapped area listed in Rule 9.6.2.Y that will discharge wastewater. The scope of this submission includes such further, alternative, or consequential relief as may be necessary to fully give effect to this submission, including potential amendments to Policy 9.2.1.BB.
OS263.005	GTJM Property Limited (Joe Morrison and Gill Thomas)	Accept the change with amendments	Retain policy 9.2.1.BB as long as areas have been correctly assessed by Council in respect of infrastructure requirements.

Background

Change F3-2 is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
The purpose of this proposal is to consider the appropriateness of allowing wastewater detention tanks as a solution to provide for zoning and development of larger greenfield residential areas where this could not otherwise be supported due to wastewater infrastructure constraints.	Adds requirements for the submission of a wastewater management plan at the time of applying for consent for subdivision, multi-unit development, or supported living facilities, including a requirement for on-site communal wastewater detention in selected new development mapped areas (NDMA).	• Add new clause to Policy 2.7.1.2 • Add new Policy 9.2.1.BB • Add new Note 9.3.7.ZA (clause b) • Add new Assessment Rule 9.6.2.Y • Add new special information requirement Rule 9.9.Y • Add new Assessment Rule 15.11.5.Z (links to 9.6.2.Y).

Submissions received

52 original submissions were received on Change F3-2 with 2 in support of the changes, 1 in conditional support and 49 seeking amendments. The Otago Regional Council made further submissions to retain Rule 9.9.Y as notified (FS184.435, FS184.436, FS184.440). Karen Wispinski (FS128.11), Chris Rudd (FS46.7) and Anthony Hoets (FS26.11) made further submissions opposing the submission by the Gladstone Family Trust (S219.014), and Roger Bailey (The Bailey Family Trust) (FS207.8), Paul Newall (FS191.7), Abbotsford School (FS1.7), Lauren & Sean McConville (FS146.7), Laurence Potter (FS148.12) and Debbie van de Water (FS74.7) made further submissions opposing the submission by Wendy Campbell (S228.009), to amend Policy 2.7.1.2.Y to provide a claw-back mechanism for the DCC to recover the cost of new infrastructure in a NDMA where there are multiple owners, and to provide DCC with the ability to compulsorily acquire easements in NDMA for new infrastructure.

Support of Change F3-2 included:

- both Ryman Healthcare Limited and Retirement Villages Association of New Zealand support the retention of Rule 9.9.Y as notified which specifies the information required for wastewater management plans for supported living facilities (S189.025 & S205.025).
- qualified support from Christopher Connor & Tina Prendergast (S76.013) to retain Policy 9.2.1.BB provided the NDMA have been correctly assessed by Council in respect of wastewater requirements.

I note that submissions with respect to the appropriateness of having a requirement for wastewater detention in IN07 Kaikorai Valley Road was addressed in Hearing 2 for Variation 2, where I recommended that the NDMA over the Kaikorai Valley property (IN07) should be removed as I consider that it is more appropriate to manage wastewater on this property through the use of a Wastewater Constraint mapped area.

I also note that issues raised in submissions relating to the funding of infrastructure, e.g. the suggested 'clawback mechanism', are addressed in Section 4.1.2 above and are not reconsidered here.

Multiple Ownership

The issues raised regarding multiple ownership and requirements in NMDAs are addressed in Section 4.3.6 of this report and I refer to the discussion and recommendations of Ms McEwan on this issue.

A number of submitters⁹ raised the concern with Policy 2.7.1.2.Y in that there are potential difficulties with the New Development Mapped Areas being in multiple ownership and issues arising for example if there is one landowner who is reluctant to participate in the infrastructure response.

In terms of the requirements for integrated wastewater systems in 3 identified NDMA areas (noting my earlier recommendation to remove the requirement from the Kaikorai Valley Road IN07 site), only the Selwyn Street NDMA (RTZ2) has multiple ownership as the area comprises four sites with 3 different sets of owners. As pointed out in the ORC submission, it is important that the wastewater detention infrastructure is well managed and for this reason they have requested that the infrastructure is vested in the DCC. The DCC cannot efficiently maintain numerous small wastewater detention systems sporadically sited on the periphery of urban Dunedin. For efficiency of scale, future management and ratepayer funding, a minimum of 50 residential sites/units was identified as being the cut-off. I do not recommend a change to this approach.

Assessment of New Development Mapped Areas for Wastewater Requirements

Christopher Connor & Tina Prendergast (S76.013) gave qualified support to retain Policy 9.2.1.BB provided the NMDAs have been correctly assessed by Council in respect of wastewater requirements. Mr Jared Oliver and Ms Jacinda Baker, DCC 3 Waters, have advised that calibrated hydraulic models of the wastewater network were used to model and assess the network capacity. I consider that the areas have been correctly assessed with regard to wastewater requirements and do not recommend any change to Policy 9.2.1.BB in response to this submission.

Ownership of Wastewater Management Systems

ORC (S271.030) supports in principle the provisions under Change F3-2 that will ensure appropriate consideration and management of wastewater within New Development Mapped area which must connect to the DCC's public wastewater infrastructure network. However, ORC seeks that wastewater systems should be vested in the DCC to achieve surety of effective and efficient operation and maintenance over time – particularly as it assists to ensure the network's capacity is not exceeded. ORC is concerned that there is a real risk that no one will take responsibility for a 'communal' system and it will not be maintained and effective over time.

⁹ Duplicate submissions from Sweep Consultancy Limited on behalf of their clients Bill Morrison S13.009, Roger and Janine Southby S191.008, Ken Close S193.007, Ron Balchin S204.008, Gladstone Family Trust S219.014, Ed Stewardson S223.008, Wendy Campbell S228.009, Meats of New Zealand Limited S232.007, Willowcroft Limited S238.003, Dunedin City Baptist Church S239.004, Invermark Investments Ltd S240.008, Grant Motion S241.008, DDS Properties (2008) Limited S242.007, Cole Bennetts S247.008, Ross McLeary & COF Ltd & Scroggs Hill Farm Ltd S249.013, Outram Developments Limited S305.008, Peter Doherty S307.009, CC Otago Limited S308.008.

The intention is for required wastewater detentions systems to be installed prior to certification of the survey plan pursuant to section 223 of the RMA, and the system to be vested in DCC ownership. See proposed assessment guidance rules 9.6.2.Y.a.v & vi. Therefore, no change to the Plan is necessary to provide relief to this request.

Removal of focus on 'efficiency' (Rules 9.6.2.Y and 15.11.5.Z)

The Retirement Villages Association of New Zealand (S205.024 & S205.026) and Ryman Healthcare Limited (S189.024 & 189.026) seek amendments to Rules 9.6.2.Y and 15.11.5.Z to remove the focus on "efficiency", which they consider will create interpretation issues. They consider that the rules should be clarified so that the focus should be on the capacity of infrastructure and the ability to suitably attenuate any adverse effects. I note that a similar request was addressed by Ms McEwan in Section 4.3.4. It was recommended that the submission be rejected because the matter of discretion as notified is consistent with that applied across provisions relating to 3 waters infrastructure. While considering the capacity of infrastructure networks is important, effects on the overall performance of infrastructure need to be considered and this is expressed in terms of the efficiency and affordability of infrastructure.

Waste Management Plans elements

The submissions¹⁰ on 9.9.Y support in principle the inclusion of guidance around wastewater management plans but are concerned that certain elements are unreasonable, incorrect and/or insufficiently defined.

Special Information Requirements Rule 9.9.Y – Wastewater management plans is as follows:

9.9.Y Wastewater management plans

1. *Any application for subdivision, multi-unit development or supported living facilities in a new development mapped area specified in Rule 9.6.2.Y must include a proposed wastewater management plan that ensures that all wastewater from the future development of the entire new development mapped area does not exceed the capacity of the wastewater public infrastructure network via the use of a communal wastewater detention system, unless such a system has already been approved for the site and will be connected to.*
2. *The wastewater management plan must be prepared by a chartered engineer and meet the following requirements:*
 - a. *Specify the design and location of one or more communal wastewater detention systems to detain wastewater from the entire new development mapped area.*
 - b. *The communal wastewater detention systems must:*
 - i *have the capacity to detain wastewater for a 24-hour period, prior to releasing to the wastewater via a connection to the wastewater public infrastructure network. The volume of wastewater to be detained will be calculated with reference to Part 5 of the Dunedin Code of Subdivision and Development 2010 ('Code of Subdivision');*
 - ii *be compatible with DCC's Supervisory Control and Data Acquisition (SCADA) system;*
 - iii *have a minimum 20 year expected life for all electrical / mechanical components and a minimum 50 year expected life for all civil components;*
 - iv *where practicable, be located such that all flow goes to one communal wastewater detention system with no pumping;*

¹⁰ Duplicate submissions from Paterson Pitts Group on behalf of their clients: Margaret Charles & Marguerita Lazar S291.019, Christopher Connor & Tina Prendergast S76.021, Glenelg Street Trust Board Incorporated S79.015, Giler and Katherine Wynn-Williams S150.015, Tom and Loretta Richardson S203.009, Paterson Pitts Group S206.023, BA Building Ltd S230.011, D N Innovations Ltd S264.011, Doug Hall S270.015, Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch S282.022, HWH Properties Ltd S295.013, Kurt Bowen S300.016.

v have components and materials that comply with the DCC's 3-Waters Approved Product and Manufacturers List and Part 5 of the Dunedin Code of Subdivision and Development 2010 ('Code of Subdivision').

3. The wastewater management plan must be submitted along with the written approval of all landowners within the new development mapped area unless they are the applicant/s. {Change F3-2}

Specifically, the submitters on Rule 9.9.Y seek that:

- Rule 9.9.Y.1 be amended to only refer to those NDMA areas that do not have existing residential connection rights.

If the NDMA is removed from the Kaikorai Valley Road property (IN07) as recommended in the right of reply from Hearing 2: Intensification, then, as the remaining two areas, Selwyn Street (Change RTZ2) and Wattie Fox Lane (Change RTZ1), do not have existing residential connection rights (as they are not currently zoned residential) so no amendment to this rule is necessary.

- Rule 9.9.Y.2 be amended to replace the words 'chartered engineer' with 'suitably qualified and experienced engineer or other land development professional'.

Mr Jared Oliver, DCC 3 Waters has advised that wastewater detention tanks are alternative infrastructure and are not infrastructure that land developers routinely design, construct and commission. There are no industry standards for this type of infrastructure and DCC 3 Waters would prefer that the wastewater management plan is prepared by a chartered engineer to give confidence that the system will function as required. Therefore I do not recommend any change to this provision as a result of submissions.

- Rule 9.9.Y.3 be amended to individual landowners to proceed with a wastewater solution for their own land in the event that other landowners do not agree to an overall wastewater solution.

See the Section above on 'Multiple Ownership'. For the reasons set out in that section I do not recommend any amendment to Rule 9.9.Y.3.

Connection to wastewater services for permitted land use and development activities (Policy 9.2.1.BB & Performance Standard 9.3.7.2.Z Wastewater)

Policy 9.2.1.BB requires specific activities (subdivision, multi-unit development, and supported living facilities) to connect to wastewater detention systems but does not require other permitted land use and development activities to connect. This policy and associated rules only applies to the sites listed in proposed Rule 9.6.2.Y (Assessment of restricted discretionary activities) being Kaikorai Valley Road (Change IN07), Selwyn Street (Change RTZ2) and Wattie Fox Lane (Change RTZ1). I note that for the Variation 2: Intensification Hearing in my right of reply that I recommended that the Kaikorai Valley property (IN07) should be removed from this rule as I consider that it is more appropriate to manage wastewater on this property through the use of a Wastewater Constraint mapped area. I also note that the rezoning of the remaining two sites will be considered through the fourth and final hearing for Variation 2 being the Greenfield Rezoning hearing scheduled for 2022. Please note the recommendation from Ms. McEwan to replace 'communal' with 'integrated' in Section 4.3.3 of this report.

The submission by Dunedin City Council (S187.025) requests a similar rule to Rule 15.6.X which links to proposed Rule 9.3.7.AA Stormwater which requires most development to connect to a stormwater management system. Expert evidence from Mr Jared Oliver and Ms Jacinda Baker, DCC 3 Waters, was sought to support the assessment of this

submission. I do not think this change is necessary as only a maximum of two residential units are permitted and these potentially may be able to be serviced without the need for connection to a wastewater detention system. I therefore do not recommend any change to the 2GP provisions in response to this submission.

Recommendation

I have considered all submissions received, and reasons for those submissions, and recommend retaining Change F3-2 as notified, other than for minor amendments to Policy 9.2.1.BB, Rule 9.3.7.Z and Rule 9.6.2.Y as set out in the Recommended Amendments section below.

I concur with the assessment of Change F3-2 as set out in the Section 32 Report, and in my opinion, the special information requirement requiring submission of a wastewater management plan sets out specific details for the design of these systems. In terms of the long-term cost burden on the public, the installation costs of communal wastewater detention will fall to the developer. However, ongoing management will be DCC's responsibility through the vesting of systems in the DCC. Costs of managing this infrastructure will be higher than for normal infrastructure connection due to additional staff and contractor time requirements to operate and maintain these systems. Overall, it is considered that the proposal will ensure that Objective 2.7.1 can still be effectively and efficiently achieved through the addition of these provisions¹¹. By enabling the use of communal wastewater detention systems, additional greenfield residential rezoning sites can be included as part of Variation 2. This will ensure that sufficient housing development capacity can be provided so that Objective 2.6.2 can be achieved.

Recommended Amendments:

None.

¹¹ See Variation 2 Additional Housing Capacity Section 32 Report (February 2021) page 117 and 118

4.4.3 Change F3-4 (Health and safety effects from wastewater)

Background

Change F3-4 is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
The purpose of the proposal is to review whether effects on health and safety should be a consideration in the Plan as part of assessing the development of on-site wastewater and stormwater disposal, and for the discharge of trade and industrial wastes as this is managed by other regulation.	Deletes all provisions that require the assessment of effects on health and safety arising from on-site wastewater and stormwater disposal and the discharge of trade and industrial wastes.	• Delete Policy 9.2.2.7 • Delete rules 9.5.3.2, 9.6.2.1, 9.6.2.5, 9.7.3.2 • Amend rules 9.7.3.1, 9.7.4.3, 15.10.3.2, 16.8.2.1, 16.10.2.5, 16.10.4.1, 16.11.2.3, 17.10.4.1, 19.10.5.1, 20.10.4.1 • Add new Note 9.3.7.ZA (clauses c-e)

Submissions received

No specific submissions were received on Change F3-4. However, broad submissions on all changes to 3 waters provisions, as outlined in Section 4.1.3 above, are relevant to this change and so the amendments cannot be deemed operative.

Recommendation

I consider that the broad submissions received on changes to 3 waters provisions do not result in a need for amendments to Change F3-4. Therefore, I recommend that it be retained as notified.

Recommended amendments:

N/A

4.5 Minor 3 waters changes

4.5.1 Change E8 (Policy 2.7.1.2.a on structure plans)

Background

Change E8 is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
Clarify Policy 2.7.1.2.a regarding requirements for public infrastructure in structure plans.	Minor wording clarification to Policy 2.7.1.2	Amend Policy 2.7.1.2.a

Change E8 to Policy 2.7.1.2.a is shown below:

Ensure areas of new urban development provide for public infrastructure networks that represent the least possible long term cost to the public through:

- ~~rules that require public infrastructure networks to be included as part of a structure plan or comprehensive plan~~ rules for **structure planned mapped areas** that specify requirements for public infrastructure networks, where necessary {Change E8};
- ...

Submissions received

No submissions were received on Change E8, although there were broad submissions on all 3 Waters changes, which covers Change E8 (see Section 4.1.3). However, no specific matters were raised that need to be addressed as part of Change E8.

Recommendation:

I recommend that the changes made under Change E8 to Policy 2.7.1.2.a be retained as notified.

I have considered the broad submissions received on all 3 Waters changes and consider that no amendments to Change E8 are required. I agree with the assessment undertaken in the Section 32 Report (page 121) that this change is a clarification.

Recommended Amendments

None.

4.5.2 Change F1-1 (Rule 9.3.7 Service Connections layout)

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS217.005	Aurora Energy Limited	Add a change	Amend Rule 9.3.7.X (Telecommunications and power) by adding an additional advice note below this rule, framed as 9.3.7.XA, as follows: Note 9.3.7.XA General advice and requirements that sit outside the District Plan a. The provision of electricity to resultant sites is controlled by electricity related legislation and regulations. Electricity providers are required to take ownership of new and existing electricity infrastructure up to a "point of supply" as defined by section 2(3) of the Electricity Act 1992. b. In relation to existing electricity infrastructure up to a point of supply, an electricity provider may require information about the location, age, of the infrastructure, including any certificate of compliance issued by an electrician as required by Section 65 of the Electricity (Safety) Regulations 2010.
OS217.004	Aurora Energy Limited	Add a change	Amend Rule 9.3.7.X.a (Telecommunications and power), as follows (the amendment shown in bold text below): a. Subdivision activities must provide all resultant sites with telecommunication (including UltraFast Broadband where available) and power supply, and associated easements , to the site boundary.
OS76.025 OS79.020 OS150.020 OS203.022 OS206.028 OS230.025 OS264.022 OS270.022 OS282.032 OS291.023 OS295.023 OS300.028 OS286.014	Duplicate submissions by Paterson Pitts Group and on behalf of their clients.	Add a change	Amend rules 9.3.7.X, 9.3.7.Y and 9.3.7.Z to include options for suitable alternative servicing arrangements for telecommunications, electricity, water supply, and wastewater and include a provision that enables the use of a consent notice to require installation of service connections as part of the building process, rather than requiring these to be installed at the time of subdivision.
OS202.005 OS263.011 OS220.008	Duplicate submissions by Terramark Limited and on behalf of their clients	Add a change	Amend rules 9.3.7.X, 9.3.7.Y and 9.3.7.Z to include the following: 1. Consideration of alternative servicing arrangements, where these are recognised as being acceptable. This may require an assessment matter for the applicant to demonstrate that the alternative solution will achieve a particular standard. 2. It should be recognised that a number of these alternative solutions are better implemented at the time of building (rather than at the time of subdivision). Accordingly, the inclusion of a provision that recognises the use of a consent notice to require installation of service connections as part of the building process is also sought.
OS217.003	Aurora Energy Limited	Accept the change	Retain Rule 9.3.7.2 (Service Connections) as notified.

OS185.001	Chorus New Zealand Limited	Accept the change	Retain Rule 9.3.7.X (Telecommunications and power) as notified.
OS224.002	Spark New Zealand Trading Limited & Vodafone New Zealand Limited	Accept the change with amendments	Amend Rule 9.3.7.X (Telecommunications and power) as follows: a. Subdivision activities must provide all resultant sites with telecommunication (including UltraFast Broadband where available) and power supply to the site boundary. b. Activities that contravene this performance standard are restricted discretionary activities.

Background

Change F1-1 (Rule 9.3.7 Service Connections layout) is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
Review the layout of Rule 9.3.7 to enable other changes to be made.	Makes a minor change to the layout of the service connections performance standard (Rule 9.3.7) to enable other changes to be made through Variation 2.	Amend Rule 9.3.7, including adding new sub-headings (9.3.7.X, 9.3.7.Y, 9.3.7.Z).

As this change is only a rearrangement of existing rule content, and not a review of the requirements it sets, there is no scope to consider submissions which seek substantive changes to the rule.

Submissions received

20 original submissions were received on Change F1-1 with two in support of the changes and 18 seeking changes. No further submissions were received to submissions on Change F1-1. All submissions seeking changes are substantive in nature and cannot be considered as part of Change F1-1.

Recommendation

I recommend that Change F1-1 be retained as notified because all requests for amendments are beyond the scope of the purpose of this change.

I do not recommend the changes sought be considered through a later plan change process, for the following reasons:

- Regarding the submission from Spark NZ & Vodafone (S224.002), the removal of ‘Ultra Fast broadband’ is not required because the rule only requires connections “where available”.
- Regarding the submissions from Aurora Energy Ltd (S217.004 and .005), the inclusion of the wording ‘associated easements’ in Rule 9.3.7.X, and an associated advice note, is unnecessary.
- Regarding the duplicate submissions by Paterson Pitts Group and on behalf of their clients (OS76.025, OS79.020, OS150.020, OS203.022, OS206.028, OS230.025, OS264.022, OS270.022, OS282.032, OS291.023, OS295.023, OS300.028 and OS286.014) and by Terramark Limited and on behalf of their clients (OS202.005, OS263.011, OS220.008) amendments to provide for ‘alternative servicing arrangements’ are not required, as these can still be considered through the resource consent process as subdivision is at least a restricted discretionary activity and contravention of the service connections performance standard is also a restricted discretionary activity.

Recommended Amendments

None.

4.5.3 Change F1-3 (Policy 9.2.1.3 on service connections)

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS217.002	Aurora Energy Limited	Accept the change with amendments	Amend 9.2.1.3.X by removing the words 'National Grid'.
OS217.006	Aurora Energy Limited	If the change is not rejected, amend	Amend Rule 9.5.3.12.X Assessment of performance standard contraventions - Service connections, by removing the words 'National Grid'.
OS28.003	Transpower New Zealand Limited	If the change is not rejected, amend	Amend Policy 9.2.1.3 to read as follows: Require subdivision activities to ensure future land use and development activities: X. have access to National Grid the electricity network and telecommunications network and do not compromise the ability to gain access to the National Grid for the purpose of its operation, maintenance and development; and Y. in areas where there is water or wastewater... (as notified) Z. unless for either (X) or (Y), allowing development... (as notified) Make a consequential amendment to Rule 9.5.3 Assessment of performance standard contraventions (12 Service Connections).
OS224.003	Spark New Zealand Trading Limited & Vodafone New Zealand Limited	Accept the change with amendments	Amend Rule 9.5.3.12 (assessment of performance standard contravention for service connections) by providing guidance for assessing applications where telecommunications or power connections cannot be adequately provided. In regard general assessment guidance for telecommunications, suggested wording is as follows: The adequacy of telecommunications infrastructure connections to any new lot or site, and where not able to be provided the methods by which prospective purchasers of a lot or site are to be informed if these connections are not available.
OS76.018 OS79.012 OS150.012 OS203.021 OS206.020 OS230.020 OS264.008 OS270.012 OS282.019 OS286.011 OS291.015 OS295.010 OS300.013	Duplicate submissions by Paterson Pitts Group and on behalf of their clients	Accept the change	Retain Policy 9.2.1.3 as notified.

Background

Change F1-3 (Policy 9.2.1.3 on service connections) is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
Review wording of Policy 9.2.1.3 to ensure it is aligned with the service connections performance standard (Rule 9.3.7) it is linked to.	A minor clarification to better align the policy wording with the existing rule and to make some minor clarifications to the policy test.	• Amend Policy 9.2.1.3. • Consequential change to assessment Rule 9.5.3.12.

Change F1-3 to Policy 9.2.1.3 is shown below:

~~Require subdivision activities to provide any available water supply and wastewater infrastructure services to all resultant sites that can be developed, unless on-site or multi-site services are proposed that will have positive effects on the overall public water supply and/or wastewater infrastructure services, or any adverse effects on them are insignificant.~~
ensure future land use and development activities:

X. have access to National Grid electricity network and telecommunications network; and

Y. in areas where there is water or wastewater public infrastructure, have access to this infrastructure in a way that will maintain its efficiency and affordability;

Z. unless, for either (X) or (Y), allowing development without access will have long term positive effects on the public infrastructure or relevant network utility, or any adverse effects will be insignificant.

This policy is referenced in Rule 9.5.3.12 Assessment of performance standard contraventions – Service connections.

Clause X of Policy 9.2.1.3 is directly related to Rule 9.3.7.X Telecommunications and power, which is shown below:

9.3.7.X Telecommunications and power {Change F1-1}

a. Subdivision activities must provide all resultant sites with telecommunication (including UltraFast Broadband where available) and power supply, to the site boundary.

b. Activities that contravene this performance standard are restricted discretionary activities. {Change F1-1}

Submissions received

18 original submissions were received on Change F1-3 with 13 in support of the changes and 5 seeking changes. No further submissions were received.

Reasons for support of Change F1-3 include that it is 'sensible' (duplicate submissions from Paterson Pitts Group and Paterson Pitts Group on behalf of their clients: Christopher Connor & Tina Prendergast S76.018, Glenelg Street Trust Board Incorporated S79.012, Giler and Katherine Wynn-Williams S150.012, Tom and Loretta Richardson S203.021, Paterson Pitts Group S206.020, BA Building Ltd S230.020, D N Innovations Ltd S264.008, Doug Hall S270.012, Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch S282.019, Karen Knudson & Ross Brown S286.011, Margaret Charles & Marguerita Lazar S291.015, HWH Properties Ltd S295.010, Kurt Bowen S300.013)

Amendments sought to Change F1-3 include:

- Transpower (S28.003) and Aurora (S217.002 & 006) seek amendments to Policy 9.2.1.3.X and Rule 9.5.3.12.X to remove reference to connection to the 'National Grid', as direct connections are to the local electricity distribution network.

- Transpower also seek to ensure that Policies 2, 5, 10 and 11 of the NPSET are given effect to by providing for Transpower’s ongoing physical access to the National Grid. Transpower seeks amendments to Policy 9.2.1.3.X to make this clear (Transpower S28.003). [I note that this is already provided for in Chapter 5 Network Utilities, in particular in Rule 5.6.1 Setback from National Grid.]
- Spark and Vodafone (S224.003) seek amendments to Rule 9.5.3.12 as they consider where Rule 9.3.7.X is breached there should be an assessment matter to provide guidance for assessing applications where telecommunications or power connections cannot be adequately provided. For example, where lots are created and telecommunication connections to support good quality broadband services cannot be provided, methods such as consent notices on titles to inform purchasers may be appropriate.

I consider that only the first bullet point is within the scope of Change F1-3 to consider, because it will better align Policy 9.2.1.3 with the existing rules relating to power connections in Rule 9.3.7, which is the purpose of the change. All other submissions are seeking substantive amendments to the rule itself, or to the associated assessment rule and these are not within the scope of Change F1-3.

Recommendation

I recommend that Change F1-3 be amended so that Policy 9.2.1.3 does not refer to connections to the ‘National Grid’.

The reference to ‘National Grid’ in Policy 9.2.1.3 was added through Change F1-3 and is not consistent with the wording of the associated rule in Rule 9.3.7 Service Connections. I agree with the Transpower submission (S28.003) and Aurora submissions (S217.002 & 006) that direct connections to electricity are available through the local electricity distribution network, and not through the ‘National Grid’ electricity network.

In addition, for the purposes of improving plan clarity, I recommend deletion of the reference to ‘network’ after ‘electricity’ and the addition of an ‘s’ to the ‘network’ which is after telecommunications. These changes can be made under clause 16 of schedule 1 of the RMA.

Recommended Amendments

Amend Policy 9.2.1.3 as follows:

~~Require subdivision activities to provide any available water supply and wastewater infrastructure services to all resultant sites that can be developed, unless on-site or multi-site services are proposed that will have positive effects on the overall public water supply and/or wastewater infrastructure services, or any adverse effects on them are insignificant. ensure future land use and development activities:~~

~~X. have access to National Grid {S28.003 and S217.002 & 006} electricity network {cl.16} and telecommunications networks {cl.16}; and~~

~~Y. in areas where there is water or wastewater public infrastructure, have access to this infrastructure in a way that will maintain its efficiency and affordability;~~

~~Z. unless, for either (X) or (Y), allowing development without access will have long term positive effects on the public infrastructure or relevant network utility, or any adverse effects will be insignificant.~~

Make consequential amendments to Rule 9.5.3.12 Assessment of performance standard contraventions - Service connections to be consistent with the above amendment.

4.5.4 Change F1-4 (Policy 2.2.4.5 on where connections to public infrastructure networks are allowed)

Submission point	Submitter Name	Support/Oppose	Summary of Submission
S314.003	Lucille Taneatualua	Reject the change	Retain Policy 2.2.4.5 unamended (inferred not stated).
<u>Background</u>			
Change F1-4 (Policy 2.2.4.5 on where connections to public infrastructure networks are allowed) is summarised as follows:			
Purpose statement	Description of change	Provisions affected by change	
Review the appropriateness of Policy 2.2.4.5.	Removes a policy which refers to a method that sits outside the Plan as these are not normally included in the District Plan but rather included in the Spatial Plan	Delete Policy 2.2.4.5.	
Policy 2.2.4.5, which is proposed to be deleted through Change F1-4, states:			
<i>Limit areas where water supply, wastewater and/or stormwater network connections are allowed to zones where network connections are anticipated (including residential and other urban zones) in order to avoid future pressure for changes to the type or density of development provided for in rural or rural residential zones adjacent to areas where water supply, wastewater and/or stormwater infrastructure may pass through.</i>			
<u>Submissions received</u>			
Lucille Taneatualua’s submission (S314.003) opposed Change F1-4 and sought Policy 2.2.4.5 be retained, although it is unclear from her submission the reasons for this. No further submissions were received. Broad submissions were also received on all 3 Waters changes, which covers Change F1-4 (see Section 4.1.3). However, no specific matters were raised that need to be addressed here.			
<u>Recommendation:</u>			
I recommend that the deletion of Policy 2.2.4.5 be retained as notified.			
I have considered the broad submissions received on all 3 Waters changes and consider that no amendments are required. I agree with the reasons for the deletion of Policy 2.2.4.5 as outlined on page 122 of the Section 32 Report.			
<u>Recommended amendments:</u>			
None.			

4.5.5 Change F1-5 (Rule 9.3.3 Firefighting)

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS187.021	Dunedin City Council	Accept the change with amendments	Amend Rule 9.3.3 (Firefighting) so that it accurately reflects the New Zealand Fire Service Firefighting Water Supplies Code of Practice it references and provides for effective compliance.
OS181.002	Fire and Emergency New Zealand	Add a change	Amend Rule 9.3.3.b (Firefighting) to read as follows; b. provide an area of minimum dimensions of 4.5m x 11m with suitable fire engine access, water storage of 45,000 litres (45m ³) or equivalent firefighting capacity, and have the water supply located within 90m of the fire risk, or otherwise provide for water supply and access to water supplies for firefighting purposes consistent with the <u>current version of SNZ/PAS 4509 New Zealand Fire Service Firefighting Water Supplies Code of Practice</u> .
OS314.004	Lucille Taneatualua	Reject the change	Remove Rule 9.3.3 (Firefighting) (inferred not stated).
OS9.012	Marita Ansin-Johnson	Accept the change	Retain Change F1-5 (Rule 9.3.3 Firefighting) as notified.
OS181.001	Fire and Emergency New Zealand	Accept the change	Retain Change F1-5 (Rule 9.3.3 Firefighting) as notified.

Background

Change F1-5 (Rule 9.3.3 Firefighting) is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
Review Rule 9.3.3 and its alignment with SNZ/PAS:4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice	Better aligns Rule 9.3.3 Firefighting with SNZ/PAS:4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice.	Amend Rule 9.3.3.

The amendments to Rule 9.3.3 Firefighting made through Change F1-5 only change clause 2(a) of this rule relating to new residential buildings, as shown below:

...

2 New residential buildings must either:

- ~~have a connection to the public water supply (where it is provided) and be located within 135m of a fire hydrant; or~~
- provide an area of minimum dimensions of 4.5m x 11m with suitable fire engine access, water storage of 45,000 litres (45m³) or equivalent firefighting capacity, and have the water supply located within 90m of the fire risk or otherwise provide for water supply and access to water supplies for firefighting purposes consistent with the SNZ/PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice.

3 Activities that contravene this performance standard are restricted discretionary activities.

Submissions received

Five original submissions were received on Change F1-5 with two in support of the changes, one in opposition and two seeking changes.

Reasons for support of Change F1-5 included that it necessary to align the provisions with the current SNZ/PAS4509 Firefighting Water Supplies Code of Practice (FENZ, S181.002).

Reasons for opposition to Change F1-5 included concern around the rule being for purposes other than fire prevention (Lucille Taneatualua S314.004).

Amendments sought to Change F1-5 included:

- amendments to Rule 9.3.3 to align it more closely to the SNZ/PAS4509 and to clarify the clause requiring new residential buildings to be located within 135 metres of a fire hydrant. This standard may not accurately reflect the Code and it is unclear how this distance is to be measured (e.g. as the crow flies or along the vehicle access etc) (Fire and Emergency New Zealand S181.002 and Dunedin City Council S187.021).

Recommendation

I recommend that Change F1-5 is retained as notified.

Although I understand the reasons for Fire and Emergency New Zealand's submission to refer to "the current version" of SNZ/PAS, rather than specifying the version 4509:2008 (to account for any changes to the standard that may occur in the future), I consider that it is *ultra vires* to make this amendment. Such an amendment could effectively result in a change to the rule without a Schedule 1 process.

I am mindful that Fire and Emergency New Zealand (OS181.001) support the retention of Change F1-5, other than the amendments sought above. I interpret this to mean that Fire and Emergency New Zealand consider that this rule is largely consistent with the Code as it stands. Therefore, I consider that no additional amendments are required in answer to the submission from Dunedin City Council (S187.021). However, I would request that Fire and Emergency New Zealand confirm whether this is their position.

I note that it is possible that a wider review of the Firefighting performance standard may be undertaken as part of a future plan variation, and this may be able to respond to any updates to the relevant standards or Code, depending on timing.

Recommended Amendments

None.

4.5.6 Change F1-6 (Deletion of Policy 2.2.5.2)

40. Note that submissions on this change have been addressed in Section 4.3.3 above on Change F2-2, because the deletion of Policy 2.2.5.2 also relates to that change.

4.5.7 Change F1-7 (Policy 2.7.1.2.b on Development Contributions Policy and requirements for developers to pay for infrastructure)

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS9.010	Marita Ansin-Johnson	Accept the change	Retain Change F1-7 (removal of Policy 2.7.1.2.b on development contributions).
<u>Background</u>			
Change F1-7 is summarised as follows:			
Purpose statement		Description of change	Provisions affected by change
Review the appropriateness of Policy 2.7.1.2.b.		Removes a policy which refers to a method that sits outside the Plan as these are not normally included in the District Plan but rather included in the Spatial Plan.	Delete Policy 2.7.1.2.b
The wording of Policy 2.7.1.2.b, which is proposed for deletion through Change F1-7, is: <i>Ensure areas of new urban development provide for public infrastructure networks that represent the least possible long term cost to the public through:</i> ... <i>b. inclusion of relevant costs of additional public infrastructure needed as a result of growth in:</i> <i>i. the Dunedin City Council's (DCC) Development Contributions Policy; or</i> <i>ii. conditions on consent that require developers to pay for or provide infrastructure prior to development;</i>			
<u>Submissions received</u>			
One submission was received in support of Change F1-7 (S9.010) and there were broad submissions on all 3 Waters changes, which covers Change F1-7 (see Section 4.1.3). However, no specific matters were raised that need to be addressed here.			
<u>Recommendation:</u>			
I recommend that the deletion of Policy 2.7.1.2.b be retained as notified.			
I have considered the broad submissions received on all 3 Waters changes and consider that no amendments are required. I agree with the assessment undertaken in the Section 32 Report (page 123) that this change removes a policy about methods outside the Plan and will have no measurable effect on Plan implementation.			
<u>Recommended amendments:</u>			
None.			

4.5.8 Change F1-8 (Policy 2.7.1.2.c on consideration of the long-term costs to the DCC of new infrastructure)

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS9.011	Marita Ansin-Johnson	Accept the change	Retain Change F1-8 (Policy 2.7.1.2.c on consideration of the long-term costs to the DCC of new infrastructure).
<u>Background</u>			
Change F1-8 is summarised as follows:			
Purpose statement		Description of change	Provisions affected by change
Ensure the wording of Policy 2.7.1.2.c reflects that this clause relates to a consideration that should be made at the time of re-zoning urban land, not after land is already zoned, which the current wording might imply.		Amends Policy 2.7.1.2.c wording to align it with plan rules and other policies which relate to proposed changes to the plan.	Amend Policy 2.7.1.2.c
The amendment to Policy 2.7.1.2.c proposed through Change F1-8, is:			
<i>Ensure areas of new urban development provide for public infrastructure networks that represent the least possible long term cost to the public through:</i>			
...			
c. assessment rules for new urban development that require consideration of, <i>as part of a proposal to rezone new urban land, the long-term costs to the DCC of any new infrastructure, including up-front capital costs to the DCC; the extent of debt required to be taken on by the DCC including the costs of the debt; and the on-going maintenance and renewals costs of new public infrastructure; and</i>			
<u>Submissions received</u>			
One original submission was received in support of Change F1-8, and there were broad submissions on all 3 Waters changes, which covers Change F1-8 (see Section 4.1.3). However, no specific matters were raised that need to be addressed here.			
<u>Recommendation</u>			
I recommend that the amendments to Policy 2.7.1.2.c proposed under Change F1-8 be retained as notified.			
I have considered the broad submissions received on all 3 Waters changes and consider that no amendments are required. I agree with the assessment undertaken in the Section 32 Report (page 123) that this change is a clarification to reflect that this provision applies at the time of rezoning, not at the time of assessing resource consents.			
<u>Recommended amendments:</u>			
None.			

4.5.9 Change F2-4 (Stormwater methods outside the Plan)

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS187.024	Dunedin City Council	Accept the change with amendments	Review whether a note to plan user should be added regarding any requirements for fencing of stormwater detention ponds under relevant legislation.

Background

Change F2-4 is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
Add notes to plan users about the methods that are used to manage stormwater effects that sit outside the Plan, so they are aware of them.	Adds new notes to plan users about methods outside the plan.	- Add new Note 9.3.7.AAA (service connections) - Add new Note 9.9.XA (SWMPs) - Add new Note 15.6.10X (impermeable surfaces)

Submissions received

The submission from DCC sought whether a note to plan user should be added regarding any requirements for fencing of stormwater detention ponds under relevant legislation. The reason for the submission was that “in some instances, stormwater detention ponds may need to be fenced to meet requirements outside the Plan. A note to plan user regarding this would help ensure developers are aware of these requirements and assist DCC Building Services.”

No further submissions were received.

Secondary expert evidence

An article available online titled ‘How Many Deaths Does it Take? Access to and Egress from Oxidation / Effluent Ponds’¹² highlights that fourteen people have drowned in effluent, oxidation or water storage ponds in the last decade in New Zealand and some people who accidentally fell into these ponds had difficulties in exiting them. The article also describes that there does not appear to be any legislation that specifically requires the fencing of these ponds and mentions the requirements of Health and Safety legislation.

Legislation

The Building (Pools) Amendment Act 2016 repealed and replaced the Fencing of Swimming Pools Act 1987. The Building (Pools) Amendment Act 2016 defines a pool as:

pool—

a. means—

- i. any excavation or structure of a kind normally used for swimming, paddling, or bathing; or*
- ii. any product (other than an ordinary home bath) that is designed or modified to be used for swimming, wading, paddling, or bathing; but*

b. does not include an artificial lake

¹² by Mr Graeme Wells, Associate Environmental Engineer, Beca Ltd, (June 2020), presented at IPWEA Conference in Dunedin and available at: https://cdn-flightdec.userfirst.co.nz/uploads/sites/under5/files/How_many_deaths_does_it_take_access_to_and_egress_from_oxidation_effluent_ponds_Graeme_Wells.pdf

I consider that a detention pond would not fit under this definition of pool, because it is not a pond which is 'normally used for swimming, paddling or bathing'. Therefore, I consider that the Building (Pools) Amendment Act 2016 does not apply to detention ponds.

Under section 36 of the Health and Safety at Work Act (2015), a defined Person Conducting a Business or Undertaking (PCBU), has a 'primary duty of care', which is a responsibility to protect the health and safety of workers and others influenced by its work. I note that stormwater detention ponds may not always be located at places of work (for example a farm), but instead may be established as part of a residential subdivision. In such a case the requirements of the Health and Safety at Work Act would not apply once the pond is established.

Recommendation

I recommend retaining Change F2-4 without amendment.

The reason for this recommendation is because it appears that there are no requirements outside the Plan requiring the fencing of stormwater detention ponds. There is no scope within this submission to consider adding a rule to the Plan to require fencing of stormwater management ponds, or to include it as a matter of discretion in terms of health and safety effects.

Recommended amendments:

None.

4.5.10 Change F3-1 (Location of available public wastewater infrastructure)

Background

Change F3-1 is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
Provide clarification on where public wastewater infrastructure is available for the purposes of the service connections performance standard (Rule 9.3.7)	Introduction of a no DCC reticulated wastewater mapped area	• Add a new definition of wastewater serviced area • Amend Rule 9.3.7 • Add Note 9.3.7.ZA (a) and (f) • Delete Note 9.3.7A regarding wastewater

I note that associated changes to map the no DCC reticulated wastewater mapped area over areas shown in Appendix 10 to the Section 32 Report fall within separate change IDs – one for each area. They are changes NWRA1-7 (addressed in the next section) and GF09 (to be addressed in a later report on greenfield rezoning).

Submissions received

No submissions were received on Change F3-1, although there were broad submissions on all 3 Waters changes, which covers Change F3-1 (see Section 4.1.3). However, no specific matters were raised that need to be addressed here.

Recommendation:

I recommend that the changes made under Change F3-1 be retained as notified.

I have considered the broad submissions received on all 3 Waters changes and consider that no amendments to Change F3-1 are required. I agree with the assessment undertaken in the Section 32 Report (page 124) that this change does not amend the requirements regarding when wastewater connections are required, it simply provides clarification about where wastewater public infrastructure is available.

Recommended amendments:

None.

4.5.11 Changes NWRA1-7 (Application of the no DCC reticulated wastewater mapped area to selected areas)

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS199.001	Michael Ovens	Reject the change	Remove Change NWRA7 (Introduction of a No DCC reticulated wastewater mapped area at Pine Hill).

Background

Change NWRA1-7 is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
Provide clarification on where public wastewater infrastructure is available for the purposes of the service connections performance standard (Rule 9.3.7)	Introduction of a no DCC reticulated wastewater mapped area	Mapping of the no DCC reticulated wastewater mapped area over areas shown in Appendix 10

Submissions received

One submission was received from Michael Ovens (S199.001) in opposition to Change NWRA7, which applied the no DCC reticulated wastewater mapped area to selected land at Patmos Avenue, Pine Hill (see figures below). This submission raised concerns that Dunedin City Council needs to supply services at some stage and that the 1000m² minimum site size in the area may limit on-site wastewater disposal requirements being met. Otago Regional Council further submitted in opposition to this point (FS184.475) because it supports the DCC’s mapping to clarify its position on the reticulation of wastewater for the area.

Relevant 2GP Provisions and Variation 2 Changes

As shown in the figures below, Change NWRA7 applies to land already zoned Large Lot Residential 1, located adjacent to the Dunedin Northern Motorway at Pine Hill. This land is also subject to an existing structure plan mapped area which allows a smaller minimum site size than the underlying zone provisions allow over part of the site (1000m² instead of 2000m² within Area A).

In addition, clause 4 of the Patmos Avenue Structure Plan Mapped Area (Rule 15.8.7), states:

1. Construction of dwellings must not take place until all roading, stormwater, wastewater and water supply infrastructure is in place for that stage of the development, and connections to future stages, and adjoining sites, are provided for.

Through Variation 2, a new development mapped area is also proposed to be added to the same area as Change NWRA7, under Change NDMA3, and this will be addressed separately later in this report. However, the NDMA provisions proposed would not provide any additional management of wastewater on this site (only of stormwater).

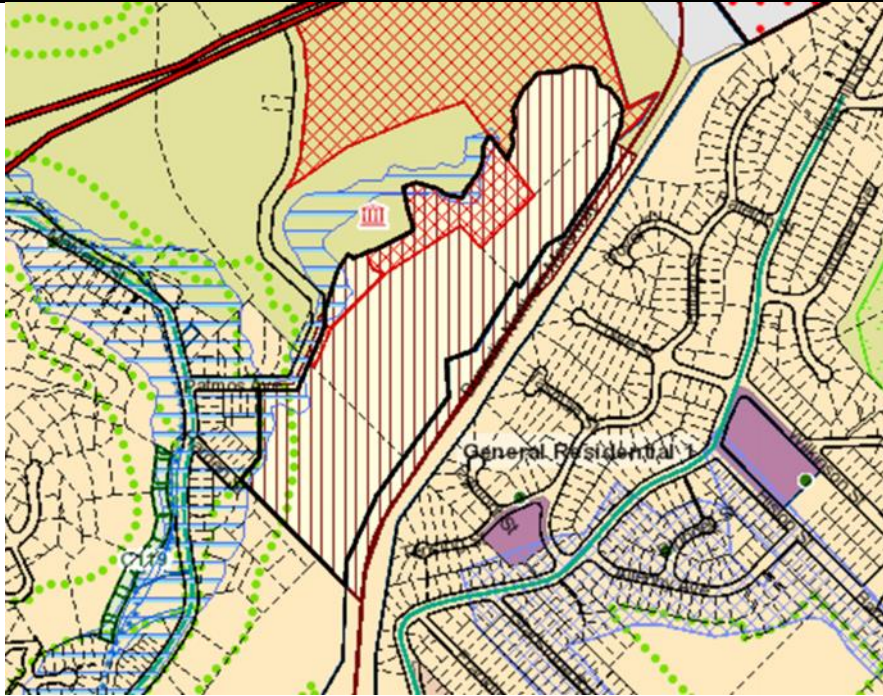


Figure Above: Area subject to Change NWRA7 is outlined with a bold black line. The underlying zoning is Large Lot Residential 1 Zone, subject to the Patmos Avenue Structure Plan Mapped Area and associated performance standards. Red hatched areas are subject to 2GP appeals.

Figure Right: The Structure Plan Mapped Area. The minimum site size is 1000m² in Area A and 2000m² in Area B (subject to 2GP appeal).



Expert Evidence

In order to further assess the matters raised in this submission, I sought expert evidence from Mr Jared Oliver and Ms Jacinda Baker from DCC 3 Waters about why this area was identified as a no DCC reticulated wastewater area and what the onsite wastewater requirements may be. This evidence states:

Due to previously identified concerns about known wastewater overflows immediately downstream (corner of Patmos Ave and Malvern St) in wet weather, the area has a 'No DCC reticulated wastewater area overlay' proposed through Variation 2 to minimise the impact of development on this issue.

3 Waters have re-assessed wastewater servicing for the site and determined that although wastewater overflows have been recorded downstream of the site in significant rainfall events, development of the site at the proposed density is unlikely to make these wet weather overflows significantly worse. The 'no DCC reticulated wastewater mapped area' can be removed from the property.

Recommendation

I recommend that Change NWRA7 be reversed so that the no DCC reticulated wastewater mapped area is removed from this area, as I accept the evidence from DCC 3 Waters.

Recommended amendments:

Remove the proposed no DCC reticulated wastewater mapped area from the land at Pine Hill (Change NWRA7).

4.5.12 Change F3-3 (Renaming the ICMA - infrastructure constraint mapped area)

Background

Change F3-3 is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
Rename the 'infrastructure constraint mapped area' so that it is not confused with the new 'stormwater constraint mapped area' proposed under Change F2-7.	Infrastructure constraint mapped area renamed to Wastewater constraint mapped area	• Amend name of mapped area in Planning Map • Amend Policy 2.6.2.3 • Amend Rule 9.5.3.3 • Amend Introduction 15.1.1.2 • Amend Rule 15.5.2.1 (b and c) • Amend Rule 15.5.2.4 • Amend Rule 15.7.4.1 (b and c) • Amend Rule 15.10.3.3

Submissions received

No submissions were received on Change F3-3, although there were broad submissions on all 3 Waters changes, which covers Change F3-3 (see Section 4.1.3). However, no specific matters were raised that need to be addressed here.

Recommendation:

I recommend that the changes made under Change F3-3 be retained as notified.

I have considered the broad submissions received on all 3 Waters changes and consider that no amendments to Change F3-3 are required. I agree with the assessment undertaken in the Section 32 Report (page 125) that this change is a clarification.

Recommended amendments:

None.

4.5.13 Change F4-1 (Reference to the DCC Water Bylaw)

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS187.026	Dunedin City Council	Accept the change with amendments	Review whether to add a note to plan users regarding DCC 3 Water's preference for separate water supply connections to be provided for each residential unit developed on a site, rather than shared connections. The scope of this submission includes such further, alternative, or consequential relief as may be necessary to fully give effect to this submission.

Background

Change F4-1 is summarised as follows:

Purpose statement	Description of change	Provisions affected by change
Clarify the function of the DCC Water Bylaw for plan users as it relates to the service connections performance standard.	Amends notes to plan users with respect to the DCC Water Bylaw	• Add new Note 9.3.7.YA • Delete old Note 9.3.7A

The proposed wording is as follows:

Note 9.3.7.YA - General advice

a. *The DCC Water Bylaw shows areas where the DCC provides access to a reticulated water supply and conditions of access. There may be a delay including recently rezoned areas in the Bylaw. In these cases, information on access is available by contacting the DCC.*

b. *For further information on connections to the public water supply network, please contact the DCC on 03 477 4000.*

Submissions received

One submission was received from DCC (S187.026) seeking amendments to note that DCC 3 Waters prefers that each residential unit has its own separate water supply connection. The reasons for this are to ensure that potential water safety issues arising from backflows, and issues with rates billing of shared connections are appropriately managed. These issues can be compounded when multiple residential units on a site are then subdivided and sold on to separate landowners, at which time the service connection performance standard for water supply in Rule 9.3.7.Y applies, which requires each resultant site to have a connection. No further submissions were received.

Expert evidence

Mr Jared Oliver and Ms Jacinda Baker, DCC 3 Waters, have provided expert evidence on this matter. This explains the requirements for water connection set-ups in the Water Bylaw 2011, which sits outside the 2GP. They consider that it would be beneficial to include an advice note to plan users to highlight these requirements and ensure that potential water safety issues arising from backflow, and issues with water billing of shared connections, are appropriately managed.

Recommendation

I recommend that the proposed advice Note 9.3.7.YA be amended to include reference to the Water Bylaw 2011’s requirements for separate water connections, as I accept the evidence from DCC 3 Waters.

Recommended amendments:

Amend Note 9.3.7.YA.a as follows:

- a. The DCC Water Bylaw shows areas where the DCC provides access to a reticulated water supply and conditions of access. There may be a delay including recently rezoned areas in the Bylaw. In these cases, information on access is available by contacting the DCC. The Bylaw also outlines the water supply connection setup requirements for customers. See the Water Bylaw for details.

4.5.14 Changes WCMA1-4 (Correct errors in Infrastructure Constraint Mapped Area mapping)

Submission point	Submitter Name	Support/Oppose	Summary of Submission
OS84.001	Geraldine Ling	Reject the change	Remove Change WCMA4 (introduction of a wastewater constraint mapped area at Waverley) from 109 Belford Street Dunedin.

Background

WCMA stands for 'wastewater constraint mapped area' (previously named 'infrastructure constraint mapped area' (ICMA)). Changes WCMA1-4 are summarised as follows:

Purpose statement	Description of change	Provisions affected by change
Correct errors in the mapping of the ICMA (now renamed WCMA under Change F3-3) in four locations.	Removal of infrastructure constraint mapped area (WCMA) as shown for Change WCMA1 and introduction of a wastewater constraint mapped area as shown for changes WCMA2-4.	Amend maps as shown in Appendix 10 of the Section 32 report

For sites that are zoned General Residential 2 Zone that are within a wastewater constraint mapped area, the maximum development potential per site is 1 habitable room per 100m² (Rule 15.5.2.c) as opposed to 1 habitable room per 45m². The reduced density provision reflects existing constraints in the relevant wastewater networks and their inability to accommodate higher density development. Four areas of wastewater constraint mapped area were incorrectly mapped in the decisions-version of the 2GP.

Submissions received

Geraldine Ling (S84.001) opposes Change WCMA4 as it will restrict the development potential of the property she owns within this area. No further submissions were received on OS84.001. WCMA4 is located at Waverley, as shown in the figure below.

Expert Evidence

Mr Jared Oliver and Ms Jacinda Baker, DCC 3 Waters, have provided comments on this submission in their evidence. This evidence confirms that Change WCMA4 was proposed due to concerns regarding wastewater overflow during high rainfall events in the relevant network. Increased development in the area would contribute to making these wet weather overflows worse, so removal of WCMA4 from 109 Belford Street was not supported. The experts also noted that the submitter has been granted a resource consent for development of two additional residential units on the site and so they are unlikely to be negatively impacted by the addition of the overlay.

Change WCMA4: Introduction of wastewater constraint mapped area, Waverley



Recommendation

I recommend that Change WCMA4 be retained as notified because I accept the evidence from DCC 3 Waters.

Recommended amendments:

None.

4.6 NDMA mapping on existing residential zoned land – specific sites

41. This section only addresses submissions regarding the mapping of NDMA over existing residential zoned land, including residential zoned land that is proposed to be rezoned to General Residential 2 Zone through Variation 2. Note that NDMA mapping over Variation 2 greenfield rezoning areas (areas with a change code “Change GFxx” or “Change RTZxx”) will be addressed as part of the next Section 42A Report on greenfield rezoning.
42. Please also refer to Section 4.1.3 above which contains the assessment of submissions broadly opposed to the NDMA method for 3 waters reasons.

4.6.1 Existing greenfield residential areas subject to NDMA (Changes NDMA02-15)

43. Submissions in this section relate to the addition of the NDMA to areas already in residential zones, but where Variation 2 is not proposing rezoning. Submissions on these specific NDMA areas have only been received for some sites. However, because broad submissions opposed to the NDMA method have also been received (addressed in Section 4.1.3 above and below), this section reviews the 3-waters evidence for applying NDMA in all areas covered by Changes NDMA02-15. Other reasons for applying the NDMA to these sites are also addressed, even though they do not relate to 3 waters, because both aspects will need to be considered in deciding whether to accept any of the submission points.

Submission point	Submitter Name	Support oppose	Decision requested
Submissions on Change NDMA02			
S193.001	Ken Close	Reject the change	Remove Change NDMA02 (addition of new development mapped area at Emerson Street and Blackhead Road, Concord).
Submissions on Change NDMA03			
S235.012	Waka Kotahi (NZ Transport Agency)	Accept the change	Retain Change NDMA03 (apply a new development mapped area at Patmos Avenue, Pine Hill) provided other points in this submission are adopted.
Submissions on Change NDMA04			
S76.010	Christopher Connor & Tina Prendergast	Reject the change	Remove Change NDMA04 (addition of a new development mapped area at Bradford) from 81A Glenelg Street, 34 Bradford Street and 5 Ronay Street.
S76.011	Christopher Connor & Tina Prendergast	If the change is not rejected, amend	Remove Change NDMA04 (addition of a new development mapped area at Bradford) from 81A Glenelg Street, 34 Bradford Street and 5 Ronay Street, or if not removed, amend the provisions as follows: 1. Insert a provision that exempts any development and/or subdivision within the land from the requirements of the NDMA/infrastructure control provisions while the density of the development and/or subdivision is consistent with the Residential Transition zone density expectations; OR 2. Restructure the New Development mapped areas/infrastructure control provisions into a form that recognises that

			there are existing-use-rights associated with the land and re-design the new controls in such a manner as to minimise development cost increases (for instance, specify nominally-sized rooftop water detention tanks on each developed site); OR 3. Rezone the land to the intended Residential Transition Zone and then re-design the stormwater management plan provisions to result in a workable arrangement.
S79.005	Glenelg Street Trust Board Incorporated	If the change is not rejected, amend	Remove Change NDMA04 (addition of a new development mapped area at Bradford) from 81A Glenelg Street, 34 Bradford Street and 5 Ronay Street, or if not removed, amend the provisions as follows: 1. Insert a provision that exempts any development and/or subdivision within the land from the requirements of the NDMA/infrastructure control provisions while the density of the development and/or subdivision is consistent with the Residential Transition zone density expectations; OR 2. Restructure the New Development mapped areas/infrastructure control provisions into a form that recognises that there are existing-use-rights associated with the land and re-design the new controls in such a manner as to minimise development cost increases (for instance, specify nominally-sized rooftop water detention tanks on each developed site); OR 3. Rezone the land to the intended Residential Transition Zone and then re-design the stormwater management plan provisions to result in a workable arrangement.
S291.009	Margaret Charles & Marguerita Lazar	If the change is not rejected, amend	Remove Change NDMA04 (addition of a new development mapped area at Bradford) from 81A Glenelg Street, 34 Bradford Street and 5 Ronay Street, or if not removed, amend the provisions as follows: 1. Insert a provision that exempts any development and/or subdivision within the land from the requirements of the NDMA/infrastructure control provisions while the density of the development and/or subdivision is consistent with the Residential Transition zone density expectations; OR 2. Restructure the New Development mapped areas/infrastructure control provisions into a form that recognises that there are existing-use-rights associated with the land and re-design the new controls in such a manner as to minimise development cost increases (for instance, specify nominally-sized rooftop water detention tanks on each developed site); OR 3. Rezone the land to the intended Residential Transition Zone and then re-design the stormwater management plan provisions to result in a workable arrangement.
Submissions on Change NDMA05			
S197.002	Keep Halfway Bush Semi Rural Inc	Reject the change	Remove Change NDMA05 (addition of a new development mapped area at Dalziel Road).
S311.002	Alice Wouters	Reject the change	Remove Change NDMA05 (addition of a new development mapped area at Dalziel Road).
S203.001	Tom and Loretta Richardson	If the change is not rejected, amend	Amend Change NDMA05 (addition of a new development mapped area at Dalziel Road) by: 1. Adding a provision that exempts any development and/or subdivision within the greenfield areas where the density of the development and/or subdivision is consistent with the current zone density expectations. This would maintain the status quo until such time as a developer proposed a density of residential activity that exceeds the current zone

			allowance. 2. Restructure the NDMA/infrastructure control provisions into a form that recognises that there are existing use rights associated with the land and re-design the new controls in such a manner as to minimise development cost increases (for example, specify nominally sized rooftop water detention tanks on each developed site). 3. Rezone the submission land to a residential zone that provides for a greater development density than the current zone, which might then justify the application of an NDMA overlay and/or a greater degree of infrastructure control. Then re-design the stormwater management plan provisions to result in a workable arrangement.
S264.001	D N Innovations Ltd	If the change is not rejected, amend	Remove Change NDMA05 (addition of a new development mapped area at Dalziel Road), or if not removed, amend the provisions as follows: 1. Insert a performance standard that exempts any development and/or subdivision within the New Development mapped area (NDMA05) from the requirements of the NDMA/infrastructure control provisions while the density of the development or subdivision is consistent with the current zone density expectations (e.g. 500m² in the General Residential 1 zone). This would maintain the status quo until such time as a developer proposed a density of residential activity that exceeds the current zone allowance OR 2. Restructure the NDMA/infrastructure control provisions into a form that recognises that there are existing use rights associated with the land and re-design the new controls in such a manner as to minimise development cost increases (for instance, specify nominally-sized rooftop water detention tanks on each developed site - these can be cost effective if implemented by way of a standardised method) OR 3. Rezone the land within the NDMA to a residential zone that provides for a greater development density than the current zone, which might then justify the application of an NDMA overlay and/or a greater degree of infrastructure control. Then re-design the stormwater management plan provisions to result in a workable arrangement.
Submissions on Change NDMA08			
S235.013	Waka Kotahi (NZ Transport Agency)	Accept the change	Retain Change NDMA08 (addition of a new development mapped area at Pine Hill) provided other points in this submission are adopted regarding increased consideration of state highways.
Submissions on Change NDMA09			
S266.002	James Sunderland & Megan Justice	Reject the change	Remove Change NDMA09 (addition of a new development mapped area at Balmacewen Golf Course).
Submissions on Change NDMA10			
S195.001	Valerie Joyce Dempster	Reject the change	Remove Change NDMA10 (addition of a new development mapped area at Taieri Road).
S311.003	Alice Wouters	Reject the change	Remove Change NDMA 10 (addition of a new development mapped area at Taieri Road).
S197.003	Keep Halfway Bush Semi Rural Inc	Reject the change	Remove Change NDMA10 (addition of a new development mapped area at Taieri Road).

Submissions on Change NDMA14			
S290.008	Victoria Jane and Pera Paul Manahera Eden	If the change is not rejected, amend	Remove Change NDMA14 (addition of a new development mapped area at St Albans Street North) from 34 Ettrick Street, or if not removed, amend the provisions as follows: 1. Insert a provision that exempts any development and/or subdivision within the land from the requirements of the NDMA/infrastructure control provisions while the density of the development and/or subdivision is consistent with the Residential Transition zone density expectations; OR 2. Restructure the New Development mapped areas/infrastructure control provisions into a form that recognises that there are existing-use-rights associated with the land and re-design the new controls in such a manner as to minimise development cost increases (for instance, specify nominally-sized rooftop water detention tanks on each developed site); OR 3. Rezone the land to the intended Residential Transition Zone and then re-design the stormwater management plan provisions to result in a workable arrangement.
Submissions on Change NDMA15			
S296.011	Jason and Margaret Hewlett	If the change is not rejected, amend	Remove Change NDMA15 (addition of a new development mapped area at Salisbury Road), or if not removed, amend the provisions as follows: 1. Insert a provision that exempts any development and/or subdivision within the land from the requirements of the NDMA/infrastructure control provisions while the density of the development and/or subdivision is consistent with the Residential Transition zone density expectations; OR 2. Restructure the New Development mapped areas/infrastructure control provisions into a form that recognises that there are existing-use-rights associated with the land and re-design the new controls in such a manner as to minimise development cost increases (for instance, specify nominally-sized rooftop water detention tanks on each developed site); OR 3. Rezone the land to the intended Residential Transition Zone and then re-design the stormwater management plan provisions to result in a workable arrangement.
Submissions on NDMA's on existing residential land (NDMA02, NDMA03 and NDMA05)			
S76.009 S79.004 S150.004 S206.010 S230.001 S260.015 S270.004 S282.009 S291.008 S295.024 S296.010	Duplicate submissions lodged by Paterson Pitts Group on behalf of themselves and their clients.	If the change is not rejected, amend	Remove new development mapped areas that are applied to land already zoned to allow residential development (NDMA02,03 and 05), or if not removed amend the requirements as follows: 1. Adding a provision that exempts any development and/or subdivision within the greenfield areas where the density of the development and/or subdivision is consistent with the current zone density expectations. This would maintain the status quo until such time as a developer proposed a density of residential activity that exceeds the current zone allowance. 2. Restructure the NDMA/infrastructure control provisions into a form that recognises that there are existing use rights associated with the land and re-design the new controls in such a manner as to minimise development cost increases (for example, specify nominally sized rooftop water detention tanks on each developed site). 3. Rezone the submission land to a residential zone that provides for a greater development density than the current

S300.003			zone, which might then justify the application of an NDMA overlay and/or a greater degree of infrastructure control. Then re-design the stormwater management plan provisions to result in a workable arrangement.
Submissions on NDMAs on existing RTZ land (NDMA04, 06-10, 12-15)			
S260.016 S206.011 S282.010 S300.004	Duplicate submissions lodged by Paterson Pitts Group on behalf of themselves and their clients.	Reject the change	Remove the new development mapped areas from the existing Residential Transition Overlay Zones (Changes NDMA04, 06-10, 12-15), or if not removed, amend the provisions as follows: 1. Insert a provision that exempts any development and/or subdivision within the land from the requirements of the NDMA/infrastructure control provisions while the density of the development and/or subdivision is consistent with the Residential Transition zone density expectations; OR 2. Restructure the New Development mapped areas/infrastructure control provisions into a form that recognises that there are existing-use-rights associated with the land and re-design the new controls in such a manner as to minimise development cost increases (for instance, specify nominally-sized rooftop water detention tanks on each developed site); OR 3. Rezone the land to the intended Residential Transition Zone and then re-design the stormwater management plan provisions to result in a workable arrangement.
S270.005	Doug Hall	If the change is not rejected, amend	Remove the new development mapped area from 636 Signal Hill Road [NOTE TO READER: NO NDMA IS PROPOSED OVER THIS LAND], or if not removed, amend the provisions as follows: 1. Insert a provision that exempts any development and/or subdivision within the land from the requirements of the NDMA/infrastructure control provisions while the density of the development and/or subdivision is consistent with the Residential Transition zone density expectations; OR 2. Restructure the New Development mapped areas/infrastructure control provisions into a form that recognises that there are existing-use-rights associated with the land and re-design the new controls in such a manner as to minimise development cost increases (for instance, specify nominally-sized rooftop water detention tanks on each developed site); OR 3. Rezone the land to the intended Residential Transition Zone and then re-design the stormwater management plan provisions to result in a workable arrangement.
<u>Background</u>			
Changes NDMA02-15 (Mapping NDMA over selected existing greenfield residential areas) can be summarised as follows:			
Purpose statement		Description of change	Provisions affected by change
The overall purpose of the proposal is to add methods 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. The scope of this proposal does not include reviewing existing methods in the Plan that may manage issues on greenfield land (e.g. the existing set of overlays and provisions that sit under		Maps the NDMA overlay over most existing undeveloped structure plan mapped areas and all remaining residential transition overlay zones.	Adds the new development mapped area over selected areas, as shown in Appendix 10 of the Section 32 Report.

them) and it does not review the criteria for zoning new residential land, where new land should be provided, or the zone types provided for in the Plan.		
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The areas where new development mapped area has been proposed over existing undeveloped residential zoned land or residential transition overlay zone (RTZ) land are as set out below (see Appendix 10 of the Section 32 Report, or the 2GP planning maps for mapping).

NDMA over existing residential zoned land:

- NDMA02: Emerson / Blackhead Road, Concord, over General Residential 1 zoned land with a structure plan mapped area;
- NDMA03: Patmos Ave, Pine Hill, over Large Lot Residential 1 zone with a structure plan mapped area (part of which is subject to appeal);
- NDMA05: Dalziel Road, near Taieri Road, over Large Lot Residential 1 zone with a structure plan mapped area;
- IN07: General Residential 2 rezoning area at 133-137 Kaikorai Valley Road (discussed in Section 4.6.2).

NDMA over existing RTZ areas:

- NDMA04: Bradford near Glenelg Street, over Rural Residential 2 zone with an RTZ (GR1) and a structure plan mapped area;
- NDMA06: St Leonards, near Burkes Drive, over Rural Residential 1 zone with an RTZ (GR1);
- NDMA07: Opoho, near Montague Street, over Rural Hill Slopes zone with an RTZ (GR1);
- NDMA08: Pine Hill, near Pine Hill Road, over Rural Hill Slopes zone with an RTZ (GR1);
- NDMA09: Balmacewen Road, at part of Balmacewen Golf Course, over Rural Hill Slopes with an RTZ (GR1);
- NDMA10: Halfway Bush, near Taieri Road, over Rural Residential 1 zone with an RTZ (GR1);
- NDMA12: St Clair Golf Course, over Rural Coastal zone with an RTZ (GR1);
- NDMA13: St Albans Street, Kaikorai Valley, over Rural Hill Slopes zone with and RTZ (GR1) and a structure plan mapped area;
- NDMA14: Ettrick Street, Kaikorai Valley, over Rural Hill Slopes zone with and RTZ (GR1) and a structure plan mapped area;
- NDMA15: Salisbury Road, Kaikorai Valley, over Rural Residential 2 zone with an RTZ (GR1).

Submissions received

Original submissions received regarding the NDMA02-15 changes are set out below. Broad submissions opposed to the NDMA method are addressed in Section 4.1.3 above.

NDMA over existing residential zoned land:

- Submissions on all NDMA over existing residential zoned land: 12 original submissions were received regarding all NDMA over existing residential zoned land. These were all lodged by local surveying firm, Paterson Pitts Group, on behalf of the submitters and request the removal of these NDMA because they consider it unreasonable to impose additional controls on land over which the zoning format is not proposed to change to enable a greater yield of development. Three alternatives to removal of the NDMA are suggested by each submitter, including:
 - an exemption from the NDMA requirements where development or subdivision is consistent with the current zone expectations; or
 - restructure the NDMA provisions to recognise existing use rights and minimise development cost increases, for instance by applying a standardised method of requiring detention tanks; or
 - rezone the land to a higher density zone and redesign the stormwater management plan provisions to result in a workable arrangement.

(Duplicate submissions on behalf of: S76.009 Christopher Connor & Tina Prendergast, S79.004 Glenelg Street Trust Board Incorporated, S150.004 Giler and Katherine Wynn-Williams, S206.010 Paterson Pitts Group, S230.001 BA Building Ltd, S260.015 Lloyd Morshuis (Morclark Developments), S270.004 Doug Hall, S282.009 Survey &

Spatial New Zealand (STSNZ) Coastal Otago Branch, S291.008 Margaret Charles & Marguerita Lazar, S295.024 HWH Properties Ltd, S296.010 Jason and Margaret Hewlett, S300.003 Kurt Bowen).

- NDMA02: 1 original submission was received (S193.001) seeking removal of the NDMA because it is considered the structure plan adequately caters for provision of infrastructure, infrastructure was already assessed at the time of rezoning, the provisions will slow down development, and a subdivision consent for part of the area has already been lodged.
- NDMA03: 1 original submission was received (S235.012 – Waka Kotahi) in support of the change provided their other submission points are adopted.
- NDMA05: 4 original submissions were received, all seeking removal of the NDMA:
 - S311.002 and S197.002 sought removal of the NDMA because they appear to be of the understanding that it further provides for development, rather than adds matters for consideration as part of the development already provided for;
 - S203.001 and S264.001 sought removal of the NDMA or the same three alternatives as promoted by Paterson Pitts and listed above.

NDMA over existing RTZ land:

- Submissions on all NDMA over existing RTZ land: 4 original submissions were received regarding all NDMA over existing RTZ land. These were all lodged by local surveying firm, Paterson Pitts Group, on behalf of the submitters and request the removal of these NDMA because they consider it unreasonable to impose additional controls on land over which the zoning format is not proposed to change to enable a greater yield of development. All but one submitter (S260.016) suggest three alternatives to removal of the NDMA, like those suggested for NDMA over existing residential zoned land:
 - an exemption from the NDMA requirements where development or subdivision is consistent with the RTZ expectations; or
 - restructure the NDMA provisions to recognise existing use rights and minimise development cost increases, for instance by applying a standardised method of requiring detention tanks; or
 - rezone the land to the intended RTZ and redesign the stormwater management plan provisions to result in a workable arrangement.
 (Duplicate submissions on behalf of: S260.016 Lloyd Morshuis (Morclark Developments), S206.011 Paterson Pitts Group, S282.010 Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch, S300.004 Kurt Bowen).
- NDMA04: 4 original submissions were received (S76.010, S76.011, S79.005, S291.009), all lodged by local surveying firm, Paterson Pitts Group, on behalf of the submitters and seeking the same outcomes as set out above.
- NDMA06: No submissions specifically on this change.
- NDMA07: No submissions specifically on this change.
- NDMA08: 1 original submission was received (S235.013 – Waka Kotahi) in support of the change provided their other submission points are adopted.
- NDMA09: 1 original submission was received (S266.002) seeking removal of the NDMA because they do not want the site developed.
- NDMA10: 3 original submissions were received (S195.001, S311.003, S197.003) seeking removal of the NDMA because they appear to be of the understanding that it further provides for development, rather than adds matters for consideration as part of the development already provided for.
- NDMA12: No submissions specifically on this change.
- NDMA13: No submissions specifically on this change.
- NDMA14: 1 original submission was received (S290.008) lodged by local surveying firm, Paterson Pitts Group, on behalf of the submitter and seeking the same outcomes as set out above.
- NDMA15: 1 original submission was received (S296.011) lodged by local surveying firm, Paterson Pitts Group, on behalf of the submitter and seeking the same outcomes as set out above.

- A submission was also received from Doug Hall (S270.005) seeking removal of an NDMA from 636 North Road, which currently contains an area of RTZ. However, no NDMA is proposed over this site at this time.

Most submission points appear to be concerned with two key issues:

- Concerns regarding the stormwater management requirements in NDMA, for which I refer to my recommendations on Change F2-2 and Rule 9.9.X; and
- Concerns about new provisions where rezoning is not proposed, as the current provisions were considered appropriate at the time these areas were originally rezoned.

Expert evidence

Mr Jared Oliver and Ms Jacinda Baker, DCC 3 Waters, have provided evidence on the need for mapping the NDMA at the areas addressed above. Importantly, this evidence only relates to the stormwater provisions that would apply in these NDMA and is based on those provisions as notified, not as amended by any recommendations made in this report.

In summary, Mr Oliver and Ms Baker consider that the NDMA should generally be retained because of known issues and/or unknown attributes of the downstream networks, which need to be examined as part of a stormwater management plan to ensure effects are appropriately managed.

Recommendation

I recommend retaining Changes NDMA02-15 as notified for the following reasons:

- I accept the evidence of DCC 3 Waters;
- Regarding comments from submitters on 'existing use rights' where land is already zoned for development but the proposed NDMA are applying more detailed requirements, I note that existing use rights only apply as set out in sections 10, 10A and 20A of the RMA. None of these sections establish an existing use right by way of a previous set of plan provisions preventing new ones from applying once they have legal effect (to activities that were not previously lawfully established). These greenfield sites are undeveloped as yet although consents may have been sought in some cases since the notification of Variation 2.
- Overall, there is an obligation on Council to ensure that the objectives of the Plan are effectively and efficiently achieved to ensure the purpose of the RMA continues to be met. Where it becomes apparent that existing provisions in the Plan are no longer achieving this outcome, a Plan change or variation to address this is justified. This is what proposals contained in Variation 2 seek to do, including some to provide more housing capacity and some to ensure stormwater effects are better managed.
- I note that the existing Plan provisions do require consideration of stormwater effects at the time of subdivision and stormwater management plans are already required as a condition of consent in many instances. The proposals that apply through the application of the NDMA strengthen and clarify an existing approach.
- Further to better managing stormwater effects, the NDMA provisions are intended to promote good urban design outcomes. The assessment rules that are proposed (which have been addressed already in the first Section 42A Report on Provisions) will provide better clarity to developers as to the expectations of DCC in processing subdivision consents in NDMA and ensure that the relevant objectives of the Plan are better achieved.
- In most instances, Variation 2 also provides for an increase in potential future density on the NDMA areas through the rule changes being considered for the General Residential 1 zone. As the NDMA areas are greenfield, the potential for these changes to significantly increase the housing development capacity of these areas is high compared to the effect the rule changes will have in developed areas. This is another reason why the NDMA provisions should be retained in these areas.

Recommended amendments:

None.

4.6.2 Intensified residential land subject to NDMA – IN07

Submission point	Submitter Name	Support oppose	Decision requested
S150.006 S206.012 S282.011 S290.009 S300.005	Duplicate submissions from Paterson Pitts Group on behalf of themselves and various submitters.	If the change is not rejected, amend	Remove new development mapped areas or greater infrastructure controls from intensified residential land (IN01-13 and RTZ1, RTZ2), or if not removed amend as follows: 1. Insert a provision that exempts any development and/or subdivision within the land from the requirements of the New Development mapped area while the density of the development and/or subdivision is consistent with the existing zone density expectations; OR 2. Restructure the New Development mapped area/infrastructure control provisions into a form that recognises that there are existing use rights associated with the land and design the new controls in such a manner as to minimise development cost increases (for instance, specify nominally-sized rooftop water detention tanks on each developed site).
S286.021	Karen Knudson & Ross Brown	If the change is not rejected, amend	Remove new development mapped areas or greater infrastructure controls from intensified residential land (IN01-13 and RTZ1, RTZ2), or if not removed amend as follows: 1. Insert a provision that exempts any development and/or subdivision within the land from the requirements of the New Development mapped area where the density of the development and/or subdivision is consistent with the existing zone density expectations. This would maintain the status quo until such time as a developer proposed a density of residential activity that exceeds the current zone allowance.

Background

New development mapped areas (NDMAs) were applied to various undeveloped sites as part of Variation 2. However, NDMA was only applied to one area of ‘intensified residential land’ (rezoning from General Residential 1 zone to General Residential 2 zone), and this was done as part of Change IN07 at 133-137 Kaikorai Valley Road. I consider that this is the only circumstance relevant to the submissions summarised above because land subject to Residential Transition Overlay Zone (RTZ) that is proposed for rezoning is technically greenfield rezoning (the existing zones are Rural or Rural Residential). Furthermore, there are no other proposed ‘greater infrastructure controls’ that apply only to ‘intensified residential land’ as part of Variation 2.

Change IN07 has previously been addressed in the Section 42A Report on Intensification Zoning (12 October 2021, Section 4.2.9) and at the subsequent hearing. Regarding the addition of the new development mapped area, Reporting Officer, Mr Paul Freeland, recommended that the NDMA be retained along with the rezoning to General Residential 2 zone (page 60 of the Section 42A Report). However, following the presentation by the submitters (Kare Knudson & Ross Brown) and their agent, along with reconsideration of the issues by Mr Jared Oliver, DCC 3 Waters, the recommendation was revised to remove the aspect of the NDMA provisions that requires on-site wastewater detention, provided the wastewater constraint mapped area is applied to the site instead. This recommendation continues to support General Residential 2 rezoning of the site.

Submissions received

Duplicate submissions were received from Paterson Pitts Group on behalf of their clients: S150.006 Giler and Katherine Wynn-Williams; S206.012 Paterson Pitts Group, S282.011 Survey & Spatial New Zealand (STSNZ) Coastal Otago Branch, S290.009 Victoria Jane and Pera Paul Manahera Eden, and S300.005 Kurt Bowen.

Karen Knudson & Ross Brown (S286.021) are also represented by Paterson Pitts Group. Karen Knudson is the owner of the land within Change IN07. The key reason for the submitter's opposition to the NDMA provisions is that they consider the additional infrastructure requirements will render the land financially unfeasible to develop, regardless of the eventual zoning of the land.

Please also refer to Section 4.1.3 above, which considers submissions generally opposed to the NDMA method for 3 waters reasons.

Recommendation

I recommend that the NDMA be retained as part of Change IN07, except for removal of the on-site wastewater detention provisions and addition of the wastewater constraint mapped area.

This recommendation is consistent with the revised recommendation of Mr Paul Freeland for the Intensification Rezoning hearing. I consider that it is appropriate to retain the other aspects of the NDMA provisions (being those related to achieving good urban design outcomes and managing stormwater on large greenfield sites) as these will ensure that the relevant objectives of the Plan can be more effectively achieved through the subdivision process. I note that the urban design aspects of the NDMA provisions (addressed in the first Section 42A Report on Provisions) ensure that there is discretion for Council to consider good urban design outcomes where they currently do not have discretion to do so. I note that the stormwater aspects of the NDMA provisions (addressed in Section 4.3.3 above) broadly seek to formalise and clarify the existing approach to stormwater management by DCC as part of subdivision and do not represent a fundamental shift in the requirements that would apply to this site under its current General Residential 1 zoning.

I consider that removal of the NDMA on-site wastewater detention provisions for this site will significantly reduce the financial burden on the developers while ensuring that the relevant objectives of the Plan will be achieved.

Recommended amendments

Consistent with the revised recommendation for the hearing on Intensification Rezoning, remove the reference to 'Kaikorai Valley Road' from Rule 15.11.5.Z and Rule 9.6.2.Y (assessment rules for wastewater management in selected NDMAs) and apply the wastewater constraint mapped area to the Change IN07 area instead.

Any consequential changes required.

Appendix A – All Submissions in Original Submitter Number Order

See separate document.

Appendix B – All Submissions in First Name Order

See separate document.