

**Private Plan Change 14: Holyhead Street, Outram
Residential 6 Zone**

Decision of the Hearings Committee

13 June 2013

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1.0 INTRODUCTION

This report details the decision of the Hearings Panel on Plan Change 14 to the Dunedin City Council District Plan (the Plan, or the District Plan).

Private Plan Change 14, Holyhead Street, Outram, sought to change the zoning of 94 Holyhead Street and 51 Mountfort Street (SH87) from Rural to Residential 6. The two lots are bounded by State Highway 87 and its reserve to the north and west, the Taieri River to the east, and Holyhead Street to the south. The lots are legally described as Lot 2 DP 20759 (contained in Computer Freehold Register OT12B/346), comprising 6.3518 hectares, and Lot 1 DP 17247, contained in OT 8C/253, comprising 3,843 m², respectively.

Lot 2 DP 20759 is held in ownership by Balmoral Developments Ltd and is the site of a former market garden. The land has been grazed since 2003. It is the site of a historic dwelling, 'Balmoral', which is registered with the New Zealand Historic Places Trust (NZHPT) as a Category 2 historic place. Lot 1 DP 17247 is held in ownership by AC and MA Capil, and has a residential dwelling on it.

Fifteen submissions were received on Private Plan Change 14. Two further submissions were received in response to these submissions. Of the 15 primary submissions received:

- 2 submissions unconditionally supported the plan change;
- 3 submissions were neutral to the plan change, but sought amendments;
- 8 submissions unconditionally opposed the plan change; and
- 2 submissions opposed the plan change or alternatively supported approving it with conditions.

The key issues raised in submissions were stormwater disposal and flooding, traffic safety, protection of the historic dwelling, sewage disposal, water supply, amenity issues, natural hazards, loss of high class soils, and the positive effect on Outram township.

Submissions were heard on 13th and 14th February, at the Municipal Chambers. The panel comprised Cr Colin Weatherall (Chair), Cr Andrew Noone, Cr Kate Wilson and Cr Jinty MacTavish.

2.0 DECISION OVERVIEW

Having had regard to the issues raised by submitters and the evidence presented, it is the Committee's decision that the re-zoning be declined. The amendment to the location of Balmoral homestead on the planning maps is approved. The reasons are discussed below.

3.0 BACKGROUND TO THE APPLICATION

3.1 Introduction

The Dunedin City District Plan was made fully operative on 3 July 2006. The Plan has adopted a zoning approach *"to provide for uses and developments which are compatible within identified areas"* (Policy 4.3.7 – Sustainability Section). This application uses the existing Residential 6 zoning in the Plan as the basis for its approach.

On 22 December 2011, Johnson Whitney, on behalf of Balmoral Developments (Outram) Limited, lodged a private plan change request with the Council pursuant to Section 73(2) (Preparation and change of district plans) and Part 2 of Schedule 1 (Private plan change process) of the Resource Management Act 1991 (the Act). The purpose of the plan change is to provide additional land for residential activity. If approved, the plan change would have the effect of changing the zoning of the land from Rural to Residential 6 under the Plan, allowing subdivision of up to 25 residential sites. Residential 6 zoning generally provides for larger sized residential sites, often with special amenity values.

The proposed lots would rely on Outram's reticulated water supply for potable and fire-fighting water, but would each have individual wastewater treatment and disposal systems.

The applicants adopted the existing issues, objectives and policies in the Dunedin City Plan for the Residential 6 zone. Changes were sought to Section 8 of the plan and the plan maps, as detailed below. A Concept Plan was prepared which would form the basis of a future subdivision consent. The key components included in the Concept Plan include fee simple residential lots, access roading, a cycleway / pedestrian walkway, and a storm water reserve.

The proposal sought to make the following changes to the District Plan:

- Amend District Plan Map 7 to delete the Rural Zone over the site and substitute Residential
- Amend Rule 8.12.1 Permitted Activities by the insertion of:
(n) Outram (North) at a density of 2000m² of site per residential unit.
- Amend Rule 8.12.2 by the insertion of a new clause (xvii) to read:
Outram (North) 2000 m² provided that there shall be not more than 25 residential allotments and that each allotment is provided with a wastewater treatment with secondary treatment.
- Amend District Plan Map 7 to relocate Historic Building Registration B651 into its correct location (being on Lot 15 as shown in the Concept Plan).

Consequential amendments would also be required to Map 6 to amend the zoning, Map 67, to extend the area of the 50 decibel daytime noise limit, Map 75, to remove the High Class Soils classification from the area, and the rules in Section 18 (Subdivision activity) to detail the services required on each lot.

3.2 Consultation

The applicant consulted with identified key stakeholders including:

- Adjoining landowners
- Officers of the Dunedin City Council
- Otago Regional Council
- New Zealand Transport Authority
- Kai Tahu ki Otago (on behalf of Te Runaka o Otakou)
- New Zealand Historic Places Trust

The responses to consultation were detailed in the application.

3.3 Notification and Submissions

Private Plan Change 14 was notified on 18 August 2012 and received 15 submissions and 2 further submissions. All submissions and further submissions were received within notified time frames and all submissions are considered to be valid as they are in accordance with the requirements of the Act.

3.4 Further Information Request

Further information was sought in relation to likely vehicle movements from the site and an assessment of the effects on the roading network. A response was received on 21 February 2012 and was considered to be acceptable by the Council's transportation operations section. Further information relating to geotechnical issues and soil quality was also provided by the applicant shortly before the hearing.

3.5 Private Plan Change 16 (Formby Street)

We note for completeness that there is another proposed plan change in Outram, Private Plan Change 16 (Formby Street) which seeks to rezone 7.7 ha of rural land to Residential 5, with subsequent subdivision to 28 new lots. The application was notified in June 2012 and the hearing was adjourned on 28 December 2012. A decision is pending.

If granted, the plan change would increase the number of available lots within the township (once subdivision is complete), potentially alleviating demand for lots within Outram.

4.0 THE HEARING

Appearances were as follows:

For the proponents, Balmoral Developments (Outram) Limited:

Phil Page, Solicitor, Gallaway Cook Allan

Cathrine and Neville Ferguson, Directors, Balmoral Developments (Outram) Ltd

Anthony Steel, Engineer, Spiire New Zealand Ltd

Derrick Railton, Engineer, Spiire New Zealand Ltd

Gary Dent, Engineer, Spiire New Zealand Ltd

David Hamilton, Engineer, David Hamilton and Associates Ltd

Colin Macdiarmid, Geotechnical engineer, Tonkin and Taylor Ltd

David Johnston, Planner, Johnston Whitney

David Whitney, Planner, Johnston Whitney

Submitters

Carol Bryan, Neighbour

Craig Werner

James Coutts, NZ Transport Agency

Sarah Valk, Otago Regional Council

Ramon Strong, Otago Regional Council

For Dunedin City Council

Paul Freeland, Senior Planner

Emma Christmas, Consultant Planner

Rachel East, Water and Waste Services

Lisa Clifford, Senior Transportation Planner

Written comments were received from submitter Mr Brian Miller. The hearing was adjourned on 14 February 2013 to determine if further information was required. It was closed on Thursday 6th June 2013.

A site visit was carried out by the panel, accompanied by Mr Freeland, on 5 March 2013.

4.1 Evidence Presented

Planning officers

Mr Freeland gave the background to another plan change in Outram, PC16, which was also to rezone rural land to residential, and so was relevant in terms of effects on infrastructure and demand. That plan change had been heard and was adjourned pending information on water supply modelling. He also discussed the relevance of the spatial plan. **Ms Christmas** gave an overview of the proposal and its potential effects. Her recommendation was to decline the plan change, on the basis that insufficient information had been provided to demonstrate that effects would not be significant, and the proposal was contrary to the objectives of the District Plan and the Spatial Plan.

Balmoral Developments (Outram) Limited

Mr Page outlined the proposal, the reasons for it and the legal framework. He stated that the Spatial Plan has 'some relevance', in that the panel must have regard to it but do not have to follow it. It was subservient to Part II of the RMA and little weight should be given to it. He summarised case law in relation to section 32 and in relation to the appropriateness of residential zoning. He considered that the High Class soils on the site were already 'lost' in that they are no longer being utilised commercially. He stated that he regarded the proposal as 'infill' due to the presence of the Capil residence at 51 Mountfort St.

Mrs Ferguson detailed the history of the site since 1946 and its use as an intensive market garden until 2003. The Fergusons attempted to sell the property, but there was no demand. The property's water right had lapsed.

Mr Steel described the proposed reticulated water supply for the development. The design was based on the DCC code of subdivision. There was sufficient water available in the reservoir to supply the additional properties. The proponents had agreed to work with the council to address issues relating to potential loss of pressure elsewhere in Outram and the possible need for a reticulation upgrade.

Mr Railton explained the soil and groundwater conditions at the site and the proposed wastewater treatment system. Individual lot disposal or a combined system were both feasible and would require the same area of land for disposal. Individual systems had been chosen to spread the effluent over a wider geographical area, and to allow for progressive development. The proposal was for advanced secondary treatment with dripline effluent dispersal for the whole subdivision. He also commented that it might be hard to gain ORC consent for wastewater treatment systems on standard 1,000 m² lots within Outram, if these were to be developed, due to the area needed for effluent dispersal and the low rates of nitrogen likely to be allowed to be discharged.

The proposed stormwater management system was explained by **Mr Dent**. Currently stormwater collects in the south-eastern corner of the site. Approximately once in every ten years it overflowed across Holyhead Street to properties on the south side. The development would result in a modest increase in the rate and volume of stormwater runoff. This would be managed by means of detention storage on lots on the west of the property (6,000 litres per lot), and pumping water from the lot on the south-east. The detention area would be deepened carefully, outside the prohibited excavation zone, to enable stormwater from a 100 yr annual return interval event to be retained without

run-off across Holyhead Road. Draining the pond within 24 – 36 hours after rainfall would reduce existing insect and odour issues and minimise any perceived water hazard.

Mr Hamilton summarised the risk of flooding from the Taieri River. He considered that the stopbank at the property would retain floods greater than a one in 500 year return period before over-topping would occur at the designated spillway. This was acceptable, even considering increased flows resulting from climate change. He referred to a Tonkin and Taylor study into stopbank stability in 2005. That report states that in the absence of over-topping the main issue for the stopbank is piping. A potential piping area 500 m downstream of Holyhead Street was identified, but it was not identified as an issue at the subject site. That same report indicated that slope stability safety factors were mainly high, indicating no significant risk in static conditions, flood conditions or under strong seismic shaking.

Mr Mcdiarmid discussed his report on liquefaction and piping risk at the site. This was a preliminary assessment, in response to matters raised in the ORC submission. Piping results when there is seepage under an embankment resulting from a water level differential on each side. If the water pressure exceeds the mantle, sand boils occur and material can wash out. Breach of the mantle is necessary for piping to occur. There is a risk of mantle failure close to the bank and it has occurred in the past, but it is not a risk at the subject site. Development can increase the risk, but it will only occur close to the bank, and engineering solutions such as sheet piling would mitigate the risk. Piping is not a reason not to develop this site, however further design would be required prior to building. Piping could affect the stopbank foundations, which are not engineered, but is not relevant to the bank itself.

He explained that soils would probably liquefy during a moderate earthquake, but at levels such that engineering solutions exist (slabs or deep piles), allowing houses to be built. The whole of the Taieri and probably parts of South Dunedin would have a similar level of risk. The groundwater level is relatively low (3 - 5 m), so there is a non-saturated crust that would not liquefy. This would help protect dwellings. The stopbank is a flexible structure and the chance of a flood and major earthquake at the same time is very low. There is a significant difference between this site and Christchurch.

Mr Johnston prepared the PC14 application and consulted with NZTA on traffic issues. His opinion was that it was better to determine the detail of roading design after the land re-zoning was approved. SH87 was not a limited access road, therefore a new access was possible. Removal of trees from the road reserve would resolve the sight distance issues. Turning lanes would be provided to avoid congestion. The detailed roading layout would be provided at the subdivision stage.

In relation to the proposed stormwater reserve, there was a similar one at Queenstown which was a grassy paddock most of the time, and of benefit to the community.

Mr Whitney discussed the planning provisions and case law in relation to high class soils, in particular the JB Farms Limited case¹, in which the Court stated that the presence of high class soils 'does not "trump" other matters.'. He considered the site was unlikely to be used again for market gardening. He also considered that the site was a logical extension of Outram. Mr Whitney summarised the relevant District Plan

¹ JB Farms Limited & Others Dec C140/2006.

provisions. He considered the plan change was consistent with these provisions, and that the objectives and policies for residential use were a better fit for the subject land than those of the rural zone. In his opinion, limited weight should be placed on the Spatial Plan as this has not been subject of an RMA submission and appeal process. Mr Whitney considered that the Spatial Plan policies (to the extent they are given weight) should be interpreted as applying to individual townships, rather than to the city as a whole. In relation to demand, he considered that there is firm demand for new sections at Outram, and the decision on this plan change should not depend on the decision on PC16.

Mr Whitney proposed an amended rule 8.12.2(xi)(a)(xvii) to address concerns raised by NZTA. He concluded that the adverse effects of the proposal were limited, and were outweighed by the positive effects. On balance, the proposal is the most appropriate way to achieve the objectives and policies of Section 4 of the District Plan, and it will achieve the purpose of the Act.

Submitters

Ms Bryan has lived on Holyhead Street for eight years in a house on the Ferguson's previous subdivision. She was concerned that the subdivision was not properly completed. She described an occasion of flooding caused by heavy rain reaching their property and was concerned that 24 additional houses would exacerbate this. She was not convinced that the proposed stormwater system would cope. She also did not want lifestyle properties with animals adjoining her land.

Mr Coutts, on behalf of the NZTA, spoke briefly to his submission. The acoustic insulation required by NZTA would apply to the whole house where it was within 80 m of the road reserve.

Mr Werner considered that there was no evidence of demand for the scale of this subdivision in Outram. It was his opinion that the Spatial Plan was of highest relevance. He asked whether the proposal would 'rob' population from other centres that are more appropriate for development, for example adjacent to the SH1 between Mosgiel and Fairfield. Developing Outram would be a mistake, and give the impression of urban sprawl.

Mr Miller provided written comments. His focus was on preserving the food producing capability of the land, as the Outram area has a combination of factors that favour the horticulture industry, more than elsewhere in Dunedin. The vegetable growing industry is robust and economically viable in NZ.

Ms Valk, on behalf of the ORC, considered that access to and from the State Highway was inappropriate, in accordance with the Otago Regional Land Transport Strategy 2011. She considered that the risk of natural hazards to people and communities following development was sufficient to warrant control of the activity. Development would also set a precedent for similar sites on the Taieri.

Mr Strong's evidence addressed the Tonkin and Taylor report on liquefaction and piping risk. He was critical of the use of the soil descriptions from test pits undertaken by CPG being the basis for designing the whole wastewater disposal system. He also considered the depth to groundwater of 5 m was not conservative enough: 3 m was more reasonable. He also considered, based on evidence from Canterbury, that lateral

spreading at the site could be more than minor in an earthquake. The key consideration in regards to floodbank integrity is the ground penetrations that will take place as a result of development. For example, septic tanks will penetrate to a depth of perhaps three metres, providing easier flow paths for seepage flows to vent to the surface, increasing the risk of a piping related failure during a large flood. The risk of liquefaction would also result in a greater number of houses having deep foundations, increasing the number of mantle penetrations.

Officer's response to evidence

In response to Mr Steels' evidence on reticulated water supply, **Ms East** commented that modelling was underway to determine how to maintain supply to users. This would take several months.

Ms Clifford outlined her concerns with the proposed subdivision layout, in particular that the subdivision design should have fewer rights-of-way, and better internal connectivity.

Ms Christmas concluded that effects were generally minor, or able to be mitigated, with the exception of those on high class soils. Further information may be required on geotechnical issues. While rural land uses may be offensive to residential dwellers, this area has always been zoned rural, and that in itself is not a reason to rezone. The proposal is generally consistent, or at least not inconsistent with, most of the District Plan provisions. The exceptions relate to high class soils. The Spatial Plan could not be dismissed out of hand and the policy direction within it was quite clear.

Balmoral Developments (Outram) Limited Right of Reply

Mr Page commented that it was a permitted activity to dig within a rural area, so the risks of development on piping would be no different. NZTA is the controlling authority of the State Highway, and therefore ORC should not be concerned with effects on it.

5.0 OUR FINDINGS ON THE MAJOR ISSUES IN CONTENTION

Our conclusions are based on the evidence presented to us, including that of the applicant, submitters and the planning staff. Our findings on the major issues in contention are as follows:

Correction to location of 'Balmoral' homestead on planning maps and within Schedule 25.1

No submissions were received that specifically addressed this matter. The change sought corrects an error in the original drafting of the plan. We approve this aspect of the plan change.

Re-zoning of the land and consequential changes to the District Plan

5.1 Consistency with District Plan Policies

The relevant section of the District Plan is Section 4, which deals with sustainability. This sets the framework for the remainder of the plan. Mr Whitney took the approach of addressing the policies, given they implement the objectives, in order to avoid repetition. We do the same.

Policy 4.3.1 is to *'Maintain and enhance amenity values'*. We do not agree with Mr Whitney that the proposal will serve to maintain and enhance amenity values. There will be a loss of amenity value for those living adjacent to the site, whose rural outlook will be lost. It will also alter the perception of Outram when approached on SH87 from Mosgiel. In the submission of R & P Brookland, the site enhances the rural character of the town and it contributes to the connection with Outram Glen and the Taieri River. We agree.

Policy 4.3.2 is to *'Avoid developments which will result in the unsustainable expansion of infrastructure services'*; and Policy 4.3.3 is to *'Promote the renovation and redevelopment of those sites within existing urban areas where there is underutilisation of urban service infrastructure.'*

The development will in all likelihood require an upgrade to the reticulated water infrastructure. While this expansion could not be considered 'unsustainable', it makes better planning sense to make full use of existing infrastructure that has capacity available, rather than undertake development that requires an expansion or upgrade of infrastructure, as outlined in Policy 4.3.3. There is existing infrastructural capacity elsewhere on the Taieri that should, in our opinion, be utilised first.

Policy 4.3.4 is to *'Provide for the protection of the natural and physical resources of the City commensurate with their local, regional and national significance.'* The explanation to the policy identifies high class soils as significant natural and physical resources in the context of the city. This is also reflected in Policy 6.3.10 which is to: *'Protect areas that contain 'high class soils' ... in a way which sustains the productive capacity of the land'*.

Section 5 of the Act requires us to sustain the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations. Maintaining and enhancing the productive capacity and life-supporting capacity of land resources, in order to meet the present and reasonably foreseeable needs of Otago's communities, is a regional objective. RPS Policy 5.5.2 is to promote the primary productivity of high class soils.

The site contains high class soils and we were struck, on our site visit, with how productive the site appeared to be, with good grass growth even after a period of drought. We accept the evidence presented by Mr Whitney that the loss of high class soils does not, in itself, 'trump' other matters. That is, loss of high class soils should not on its own determine whether or not a proposal should not proceed. However it is a relevant factor that we must consider. The policy guidance is clear that loss of high class soils is to be avoided.

Mr Page argued that the soils are not lost because of zoning but continue to exist and can be used in other ways. He considered that the development would be likely to attract purchasers with lifestyle interests, and the availability of the soils for food

production would remain, albeit at a hobby scale. We disagree with this assessment. At 2,000 m², the lots are too small for traditional lifestyle development, and the bulk of the sites are likely to be taken up with houses, outbuildings, driveways, carparking, decks, lawns, wastewater disposal systems and ornamental gardens. Any food produced is likely to be limited to that which can be consumed by the household.

The applicants also argued that the area of land involved is very small, in relation to the total area of high class soils within Dunedin City. However, we do not consider this is justification for loss of this area, as all losses are cumulative. Neither do we accept the applicant's evidence that productive use of this site is not possible, due to its small size. Mr Miller, in his written submission, commented on the 'not unusual' situation of market gardeners utilising several sites at different locations in order to form viable and economic businesses. He considered that the Outram area was unique within Dunedin for horticulture, with a combination of factors that favour the horticulture industry. He considered it vital for the horticultural industry's survival within Dunedin that such areas are preserved for future generations for their food producing capabilities and employment opportunities. He also noted that the vegetable growing industry is robust and economically viable in New Zealand, as shown by the number of overseas companies now establishing in New Zealand. Patterns of food production change over time and while at this time the Fergusons' have found it uneconomic to farm the land, we have heard no evidence that suggests to us that this will always be the case.

The explanation to Policy 5.5.2 highlights the retention of high class soils as a significant regional resource management issue, and states that safeguarding their life-supporting capacity and their potential for future generations is essential to integrated management of the region's natural and physical resources. Alternatives should be fully considered before high class soils are selected for a use that will result in their loss.

Mr Whitney drew our attention to the explanation to Policy 6.3.10, which states: *'It is recognised however, that the conservation of high quality or versatile soils at a broad level needs to be balanced against other uses of the land which enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety.'* The conservation of high class soils must therefore be balanced with other uses. There are alternative sites for residential development within the City which would not result in the loss of high class soils and there are sites within Outram which may be able to be developed as infill. Loss of high class soils would be acceptable if there were strong reasons why a piece of land should be used for other purposes. However, in our opinion there is limited justification for the use of this land for residential development, given the availability of land elsewhere, and the lack of proven strong demand. There is therefore insufficient justification for the loss of this land to productive uses.

Policy 4.3.5 relates to the provision of infrastructural services to an appropriate standard. This policy could be met if the proposal was approved.

Policy 4.3.6 is to *'Provide access to natural and physical resources'*. The explanation to this policy refers to making special provision for access to reserves, natural areas and river and coastal margins.

Policy 4.3.7 is to *'Use zoning to provide for uses and developments which are compatible within identified areas'*; Policy 4.3.8 is to *'Avoid the indiscriminate mixing of incompatible*

uses and developments’; and Policy 4.3.9 is to ‘Require consideration of those uses and developments which: (a) could give rise to adverse effects; (b) Give rise to effects that cannot be identified or are not sufficiently understood at the time of preparing or changing the District Plan’.

Mr Whitney considered that the current rural zoning is incompatible with the adjacent residential development, in particular the ability to undertake various rural activities as of right on the property, which may affect neighbouring residents. Mrs Ferguson commented on the disturbance caused to neighbours by early morning starts when the site was operated as a market garden. We accept that rural activities may cause disturbance to those living nearby. However, the site has always been rural and the change to a residential zoning for land on the north side of Holyhead Street was relatively recent. Residents would have moved into neighbouring houses well aware that the adjoining land was rural. There will always be a boundary between rural and residential, and those living in such areas presumably do so being aware of these issues. We do not accept, therefore, that there is an issue of ‘indiscriminate mixing of incompatible uses and developments’ that it is necessary to remedy by means of this plan change.

Policy 4.3.10 is to *‘Adopt an holistic approach in assessing the effects of the use and development of natural and physical resources.’* This decision adopts an holistic approach in considering the effects of the proposal.

5.2 Efficient Use of Natural and Physical Resources

The primary concern we have with regards to this proposal is that it does not represent efficient use of natural and physical resources. This concern relates to the lot size, the lack of proven demand, and the spread of residential development into high class rural land contrary to good planning principles, as articulated in both the District Plan and Spatial Plan.

Lot size

The proposed lot size (which we understand has been chosen for reasons of wastewater disposal) is nonetheless the least efficient use of this land, removing productive soils from being able to be utilised effectively, while providing for a relatively small number of dwellings. If conversion of productive land to residential land is necessary, smaller lot sizes represent a more efficient use of land.

Demand

We agree with the evidence of Mr Werner that no evidence of clear demand was presented by the developer. We understand that Outram is considered by some a desirable place to live. We are not, however, convinced that demand exists for lots the size of these in the Outram area, as evidenced by the slow development of lots in the subdivision at the end of Hoylake Street. A better approach would be to assess where demand lies across the district, and for what site size, and then identify areas that should be rezoned to meet those needs, while still achieving the overall planning objectives for Dunedin and the purpose of the Act.

Mr Werner questioned if approving this proposal would in fact rob new population for other centres that are:

- Closer to the CBD
- Up to date on municipal utility infrastructure or with extra capacity
- Already on a path to some degree of independence
- Adjacent to SH1 for commuting efficiency
- Offering an amenity backdrop that is not sensitive to development intensification and with little intrusion on existing neighbours
- Less prone to having their history and character degraded by suburbanisation.

We agree these are relevant questions and we suspect that the answer in many cases is 'yes'.

We are not convinced that the positive effect of satisfying a demand exists in this instance to offset the adverse effects of loss of productive land. Should demand exist, we are of the view that there are likely to be sites that are more suitable elsewhere.

5.3 Connectivity with Outram

An additional concern with the proposed development is its lack of connectivity with Outram township due to a design which focuses on access to the State Highway. In this matter we agree with Council's Senior Transportation planner, Ms Clifford, whose opinion was that the design did not meet the objectives of the Dunedin Code of Subdivision and Development 2010. This states that: *'the street and road network shall provide a high level of internal accessibility and good external connections for all modes of transport'*. She commented that the subdivision is like three separate subdivisions with poor connection between them. The development appears to be focussed on commuters to Dunedin or Mosgiel and does not, in our opinion, represent good design, and limits the potential benefits for Outram. While this could be resolved through an alternative design, we are obliged to consider only the proposal in front of us.

5.4 Natural Hazards

This site has three particular natural hazard issues. The risk of flooding, which we accept is appropriately mitigated by the stopbank; the risk of liquefaction in a moderate to large earthquake; and the risk of piping, leading to stopbank failure. We understood from Mr Macdiarmid that engineering solutions exist to mitigate these risks. We remain concerned, however, about the piping risk at the site, and the subsequent risk to stopbank stability. Mr Strong raised issues about the conservatism of the modelling undertaken by Tonkin and Taylor and the apparent lack of consideration of the increased risk of piping as a result of measures (such as deep piles) that may be utilised to overcome the liquefaction risk. Stopbank failure in this location, if the site was developed, could be catastrophic and we would need to be very sure that development would not significantly exacerbate the risk. Mr Strong's opinion was that there was not enough information about this site at present to make a decision. Given our view is to decline the proposal for other reasons, we have not sought additional information.

5.5 Infrastructural Issues

We are generally satisfied, in relation to issues of water supply and sewage disposal, that effects on existing water users and on water quality would be minor or able to be mitigated. We are satisfied that there is sufficient water available for the township, including this proposal and the Plan Change 16 proposal, provided issues of pressure can be resolved.

The proposed stormwater disposal system would provide a benefit to residents of Holyhead Street by reducing the incidence of flooding across the road during significant (greater than 1 in 10 year) rainfall events. However this benefit does not, in our opinion, outweigh the negative effects of the proposal.

5.6 Spatial Plan

There is little dispute that in the hierarchy of documents we must consider, the Spatial Plan comes after the District Plan, given that it is not a statutory document. Mr Page and Mr Whitney argued it should be given little weight, since it was not prepared under the RMA, and therefore subject to the submission and appeal process in that Act. They referred to the Infinity case² in support of this.

The Spatial Plan was developed to guide the re-drafting of the District Plan, rather than as policy guidance for activities under the current District Plan. However, we note the following from 'Part 3: Implementation' of the Spatial Plan:

"Prior to the adoption of the Second Generation District Plan, land owners may seek to establish activities that may not be supported by the provisions of the current District Plan. In these situations, the DCC may look to the Spatial Plan as a guide to determine whether such proposals are aligned with the strategic thinking for the city into the future. The Spatial Plan will be used to provide direction to other national and regional authorities, private developers, other infrastructure providers and the community sector. It will provide a clear framework and level playing field for development in the city. It is expected that, once adopted, all significant developments will be assessed against the Spatial Plan."

Under section 74 of the RMA we must have regard to the Spatial Plan as a strategy prepared under another Act. While we agree that it carries less weight than the District Plan, as it has not been developed through a submission and appeal RMA process, however it does embody good urban planning principles and we believe it has relevance. It follows the same direction as the objectives and policies in Chapter 4 of the District Plan, albeit stating outcomes more explicitly. As such it has helped us, together with the District Plan policies, to determine what 'sustaining the potential of natural and physical resources' means in this case. It is our view that, unless there is a clear need to expand beyond residential boundaries, development should be focussed on existing settlements. This allows full use to be made of existing infrastructural capacity and to preserve rural land for its amenity and productive values. If expansion is to occur, it should be done in an efficient way, by limiting lot sizes and avoiding areas with underlying issues such as the groundwater protection zone, the no excavation zone, high class soils and piping issues that occur here. Mr Page argued that the development was 'infill', given the existing dwelling on the Capil property. We do not agree. The proposal clearly

² Infinity Group & DN Thorn v Queenstown Lakes District Council Dec C010/2005

represents expansion into the rural area, and in this regard is contrary to the policy direction of the Spatial Plan.

Conclusion on re-zoning

Our overall conclusion is that the proposed development does not represent efficient use of the land resource or sustain the potential of the natural and physical resources for future generations. There has been no proven demand or clear need for residential sites in this location that would tip the balance in favour of development rather than protection of the soil resource. The need for large lot sizes, due to the issues of wastewater disposal and piping risk, compounds this issue. The development is contrary to several of the policies in Section 4 of the District Plan. The purported benefits of removing a potential adverse effect from rural use of the land is, in our view, overstated. Expansion of the township into the rural area will affect amenity values, result in loss of productive land, and is contrary to good planning practice of developing existing residential areas with infrastructural capacity prior to expanding into the rural zone.

6.0 STATUTORY CONSIDERATIONS

The matters which a council must consider when deciding on submissions on a district plan change are set out in Part II and sections 31, 32 and 72-75 of the Act. District plans must achieve the purpose of the Act and must assist the Council to carry out its functions under the RMA. District plans must also give effect to the Regional Policy Statement and not be inconsistent with a regional plan.

The Council must also take into account any planning document recognised by an iwi authority and lodged with the Council. The Kai Tahu ki Otago Natural Resource Management Plan (2005) is relevant in this regard.

The following documents have been considered in reaching our decision and due consideration and weight has been given to the various provisions.

6.1 Regional Policy Statement

The Regional Policy Statement (RPS) has relevant objectives and policies relating to maintaining the primary productive capacity of land resources (Objective 5.4.1, Policies 5.5.2 and 5.5.3), sustainable management of the built environment and infrastructure and avoiding, remedying or mitigating adverse effects on natural and physical resources (Objectives 9.4.1, 9.4.2, 9.4.3 and Policies 9.5.2, 9.5.5 and 9.5.6), and managing natural hazards (Objective 11.4.2, Policies 11.5.2, 11.5.3 and 11.5.4).

The proposal is contrary to policies 5.5.2 and 5.5.3, which deal with protection of the soil resource, in particular high class soils.

6.2 Regional Plan: Water

The Regional Plan: Water includes policies and rules in relation to the disposal of wastewater and stormwater. The thrust of these provisions is to maintain or enhance water quality within the region so that it is suitable to support people's use of it.

The proposal is not inconsistent with the Regional Plan: Water.

6.3 Kai Tahu ki Otago Natural Resource Management Plan

The Kai Tahu ki Otago (KTKO) Management Plan contains region-wide objectives and policies in relation (of relevance) to discharges and land disturbance. KTKO Ltd advised the applicant that the proposal was not inconsistent with the Management Plan.

6.4 National Environment Standard (Contaminated Sites)

The applicant engaged Spiire New Zealand Ltd to investigate the potential for contamination of the subject site, given its previous use as a market garden. The investigation followed the Ministry of Environment's Guidelines for investigation involving potentially contaminated land. The findings indicated that the site is not a Hazardous Activities and Industries List (HAIL) site as there is no evidence of persistent pesticide bulk storage or use. The investigations determined that no contaminants are present at levels above soil guidance values appropriate to residential use and therefore the land is suitable for residential use. Consequently, we are satisfied that the National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations (2011) does not apply.

7.0 DECISIONS ON SUBMISSIONS

Submissions have been grouped in relation to the common themes they are concerned with, as follows:

- Whole of Plan Change
- Consultation
- Urban Design Principles
- Concept Plan and Design Controls
- Character of the Town
- Heritage
- Demand for additional housing
- Reticulated water supply
- Wastewater disposal
- Stormwater
- Effects of the stormwater retention pond on amenity
- Traffic Issues
- High Class Soils
- Natural Hazards

7.1 Whole of Plan Change

Submissions

Submitter	Submission Point	Further Submission
Craig Werner (PC14-1/a)	That the Council decline the plan change.	
Lyndon Gold (PC14-4/a)	That the Council approve the plan change.	
Allan and Esther Hill (PC14-5/a)	That the Council decline the plan change.	
Wendy Ockwell (PC14-6/a)	That the Council decline the plan change.	
Brian Miller (PC14-8/a)	That the Council decline the plan change.	
NZTA (PC14-11/a)	That the Council approve the plan change subject to the changes requested	
ORC (PC14-12/a)	That the Council decline the plan change.	
Gregory and Rebecca McSkimming (PC14-13/a)	That the Council decline the plan change.	
Rebecca and Peter Brookland (PC14-14/a)	That the Council decline the plan change.	
Kenneth Cookson (PC14-15/a)	That the Council approve the plan change.	

Discussion

Two submissions were in support of the entire plan change. Kenneth Cookson gave no reasons. Lyndon Gould commented that Outram needs to grow and the proposal will provide additional opportunities for people to live in Outram.

The remaining submissions listed above either opposed or were neutral with regards to the plan change.

For the reasons discussed above, it is our decision to decline the plan change.

Decision PPC 14/7.1

The Committee's decision is to:

- (i) **reject** the submissions of Lyndon Gold (PC14-4/a), NZTA (PC14-11/a) and Kenneth Cookson (PC14-15/a).
- (ii) **accept** the submissions of Craig Werner (PC14-1/a), Allan and Esther Hill (PC14-5/a), Wendy Ockwell (PC14-6/a), Brian Miller (PC14-8/a), ORC (PC14-12/a), Gregory and Rebecca McSkimming (PC14-13/a) and Rebecca and Peter Brookland (PC14-14/a).

Reasons for Decision

- (i) The proposal is generally inconsistent with the objectives and policies of the Sustainability Section of the District Plan.
- (ii) The proposal will result in the loss of high class soils and therefore will not sustain the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations.
- (iii) The proposal does not represent the efficient use of land.
- (iv) The design does not provide for good connectivity with Outram.
- (v) The proposal is inconsistent with the Spatial Plan's overall objective for Dunedin's urban form and the associated urban form policies.

7.2 Consultation**Submissions**

Submitter	Submission Point	Further Submission
Tim and Donna-Marie Gibson (PC14-9/b)	Felt they should have been considered as an affected party and only found out about the subdivision by chance.	
Carol Bryan (PC14-7/b)	Lives next door and feels they should have been part of consultation process.	

Discussion

Two submitters considered they were either not adequately consulted or that they wished to be part of the consultation process. Whilst it is best practice to consult with neighbours during preparation of a plan change, it is not mandatory. Both parties made submissions and were involved in the process.

Decision PPC 14/7.2

The Committee's decision is to:

- (i) **note** the submissions of Tim and Donna-Marie Gibson (PC14-9/b) and Carol Bryan (PC14-7/b)

Reasons for Decision

- (i) Consultation is not mandatory. Both submitters were involved in the plan change process.

7.3 Urban Design Principles

Submissions

Submitter	Submission Point	Further Submission
Craig Werner (PC14-1/c)	Contends that the expansion of Outram is contrary to urban planning principles of densification and containment of Council costs within urban limits.	

Discussion

As discussed earlier, due to the lack of demonstrated demand for sections in Outram and the spread of development beyond the existing urban boundary, we accept Mr Werner's submission.

Decision PPC 14/7.3

The Committee's decision is to:

- (i) **accept** the submission of Craig Werner (PC14-1/c)

Reasons for Decision

- (i) The proposal does not represent good urban planning practice.
- (ii) The proposal is inconsistent with the District Plan and Spatial Plan's overall objective for Dunedin's urban form and the associated urban form policies.

7.4 Concept Plan and Design Controls

Submissions

Submitter	Submission Point	Further Submission
NZHPT (PC14-2/c)	The concept plan should be adopted as a structure plan for the site, with a rule requiring consent to be obtained for any subdivision not in accordance with the plan.	
NZTA (PC14-11/c)	The concept plan should be enshrined in the plan in order to ensure clarity as to the location of access.	
Rebecca and Peter Brookland (PC14-14/k)	There are no specifics in the application regarding design controls or any requirement that they be put in place by future owners.	

Discussion

The issues raised by the submitters are relevant and if it had been our decision to approve the plan change, then the relief sought by NZHPT and NZTA would have been

appropriate. However, since we have decided to decline the application, the submission points are no longer relevant and for that reason, they are rejected.

Decision PPC 14/7.4

The Committee's decision is to:

- (i) **reject** the submissions of NZHPT (PC14-2/c), NZTA (PC14-11/c) and Rebecca and Peter Brookland (PC14-14/k).

Reasons for Decision

- (i) For the reasons stated earlier, it is our decision to decline the plan change. The submission points are therefore no longer relevant.

7.5 Character of the Town

Submissions

Submitter	Submission Point	Further Submission
Tim and Donna-Marie Gibson (PC14-9/d)	Large homes could be built close to boundaries, shading existing properties.	
Rebecca and Gregory McSkimming (PC14-13/d)	Oppose the proposed plan change as it will change the town, especially at its entrance	
Rebecca and Peter Brookland (PC14-14/d)	Disagree with the applicants claim that the plan change area is an isolated pocket of land. Rather they feel that the land enhances the rural character of the town and that it contributes to the connection with Outram Glen and the Taieri River.	

Discussion

R and G McSkimming were concerned about the change to Outram, in particular to its entrance. R and P Brookland disputed the applicant's contention that the rural land is out of character with the adjacent residential subdivision. They considered it in keeping with the adjacent Taieri River and Outram Glen, and a contributor to the unique charm and appeal of Outram. They considered the proposal would adversely affect the existing landscape. We agree with these submission points. Policy 9.5.5 of the RPS is to maintain, and where practicable enhance, the quality of life for people by providing a level of amenity which is acceptable to the community. This is reflected in District Plan Policy 4.3.1.

T and DM Gibson were concerned about the likelihood of large dwellings being constructed close to the southern boundaries of the lots with only a 2 metre setback from the side or rear boundary. They sought that the plan change be declined or alternatively maximum height and setback restrictions imposed to reduce or eliminate adverse effects.

We do not accept Mr and Mrs Gibson's submission, as rules within the District Plan provide for appropriate setbacks. Furthermore, since our decision is to decline the plan change, the submission is no longer relevant.

Decision PPC 14/7.5

The Committee's decision is to:

- (i) **accept** the submissions of Rebecca and Gregory McSkimming (PC14-13/d) and Rebecca and Peter Brookland (PC14-14/d).
- (ii) **reject** the submission of Tim and Donna-Marie Gibson (PC14-9/d).

Reasons for Decision

- (i) There will be adverse effects on the rural amenity of the town.
- (ii) The permitted activity conditions of the Residential 6 zone are consistent with those of Residential 5 and are designed to prevent excessive shading of adjoining properties.

7.6 Heritage

Submissions

Submitter	Submission Point	Further Submission
Raymond and Evelyn Beardsmore (PC14-10/d)	The setting for Balmoral will be spoilt by a proliferation of housing and fencing, detracting from the grandeur of the setting.	
NZHPT (PC14-2/d)	The outbuildings around Balmoral form part of the setting. NZHPT consider it appropriate that these are all retained on one lot.	
Rebecca and Peter Brookland (PC14-14/d)	Balmoral is architecturally and historically relevant to Outram. Owners of new Lot 17 are likely to build to the rear of the section, meaning there will be inadequate space to retain the setting of the building.	

Discussion

While we accept NZHPT's view that the heritage values of Balmoral would not be affected by the proposal to rezone the land, for the reasons discussed above the plan change is declined. This will achieve the outcome sought by all submitters.

Decision PPC 14/7.6

The Committee's decision is to:

- (i) **accept** the submission of NZHPT (PC14-2/d).
- (ii) **reject** the submissions of Raymond and Evelyn Beardsmore (PC14-10/d) and Rebecca and Peter Brookland (PC14-14/d).

Reason for Decision

- (i) For the reasons stated earlier, it is our decision to decline the plan change. The submission points are therefore no longer relevant.

7.7 Demand for Additional Housing

Submitter	Submission Point	Further Submission
Lyndon Gold (PC14-4/e)	Supports the plan change as Outram needs to continue to grow.	
Craig Werner (PC14-1/e)	Feels that the proposal allows the developer to stimulate demand rather than demand being led by proper Council planning processes.	
Rebecca and Peter Brookland (PC14-14/e)	Maintain that there is currently an adequate supply of vacant sites in Outram, Allanton, and Mosgiel to meet current demand.	
Raymond and Evelyn Beardsmore (PC14-10/-)	Alternative sites elsewhere on the Taieri Plain should be taken up first.	

Discussion

The issue of demand has been discussed earlier in our decision. For the reasons discussed above, we accept the submissions of Mr Werner, Mr and Mrs Brookland and Mr and Mrs Beardsmore. We reject the submission by Mr Gold.

Decision PPC 14/7.7

The Committee's decision is to:

- (i) **reject** the submissions of Lyndon Gold (PC14-4/e),
- (ii) **accept** the submissions of Craig Werner (PC14-1/e,) Rebecca and Peter Brookland (PC14-14/e) and Raymond and Evelyn Beardsmore (PC14-10/-).

Reasons for Decision

- (i) Demand for larger sections in Outram is unproven.
- (ii) Expansion of Outram beyond the urban/rural boundary is inconsistent with the Urban Form objective and policies of the District Plan and Spatial Plan.

7.8 Reticulated Water Supply**Submissions**

Submitter	Submission Point	Further Submission
Tim and Donna-Marie Gibson (PC14-9/f)	Refer to memos prepared in relation to PPC16 concluding that works should be undertaken with regard to main water pumps and treatment plant, and referring to existing low water pressures during high demand. Additional houses from both developments will reduce fire fighting capacity and domestic water pressure.	
Rebecca and Peter Brookland (PC14-14/f)	Concerned that the water supply figures underestimate the impact of the proposal. Is concerned about the future impact of the proposal on water supply.	

Discussion

As stated earlier, we are satisfied that there is sufficient water available for the township, including this proposal and the Plan Change 16 proposal, provided issues of pressure can be resolved. Modelling is still underway by Council's Water and Waste Services to determine the nature of works required should further development in Outram occur. However, since we have decided to decline the plan change, no further information on this matter has been sought.

Decision PPC 14/7.8

The Committee's decision is to:

- (i) **reject** the submissions by Rebecca and Peter Brookland (PC14-14/f) and Tim and Donna-Marie Gibson (PC14-9/f).

Reasons for Decision

- (i) For the reasons stated earlier, it is our decision to decline the plan change. The submissions are therefore no longer relevant.

7.9 Wastewater Disposal

Submission

Submitter	Submission Point	Further Submission
Jennifer Allen (PC14-3/f)	Is concerned about the impact of sewage disposal on the river.	
Brian Miller (PC14-8/-)	There should be no further residential development until an Outram wide reticulated wastewater system is in place.	
Raymond and Evelyn Beardsmore (PC14-10/f)	Have concern that septic tanks in the subdivision will further load the groundwater, and queries how they will cope during floods. This may force the residents of Outram to wear the financial burden of a proper town system.	
Rebecca and Gregory McSkimming (PC14-13/f)	Concern over the risk of contamination. They point out that Allanton has a sewerage system with fewer houses than Outram. They seek that the plan change be declined until the Council has addressed the town's infrastructure problems with permanent solutions.	

Discussion

We are satisfied, based on the applicant's evidence, that there is no risk to water quality resulting from wastewater disposal. However, given our decision to decline the proposal for reasons stated earlier, the submissions are no longer relevant.

Decision PPC 14/7.9

The Committee's decision is to:

- (i) **reject** the submissions of Jennifer Allen (PC14-3/f), Brian Miller (PC14-8/-), Raymond and Evelyn Beardsmore (PC14-10/f) and Rebecca and Gregory McSkimming (PC14-13/f).

Reasons for Decision

- (i) It is our decision to decline the plan change. The submission points are therefore no longer relevant.

7.10 Stormwater

Submissions

Submitter	Submission Point	Further Submission
Wendy Ockwell (PC14-6/f)	Is concerned about the capacity of stormwater services to cope as flooding starts after 3 hours of rain. The area of the proposed detention pond does not free drain.	Wayne and Fiona Crampton (PC14-FS2) supports this submission.
Carol Bryan (PC14-7/-)	The detention pond area currently fills during several days of steady rain. Queries how it will cope with additional houses.	Wayne and Fiona Crampton (PC14-FS2) supports this submission.
Otago Regional Council (PC14-12/f)	Raises concern over the ability of the existing infrastructure to cope with a stormwater event, although generally supportive of the applicant's analysis. Feels the proposal will result in a decrease in the quality of stormwater management.	
Rebecca and Gregory McSkimming (PC14-13/f)	Raise concerns in relation to the current ability of the town's stormwater system to cope during heavy rain, and the additional strain the subdivision will cause. They seek that the plan change be declined until the Council has addressed the town's infrastructure problems with permanent solutions.	Wayne and Fiona Crampton (PC14-FS2) supports this submission.
Rebecca and Peter Brookland (PC14-14/f)	The likely impermeable area has been underestimated in the calculations, resulting in more stormwater than estimated.	Wayne and Fiona Crampton (PC14-FS2) supports this submission.

Discussion

We are satisfied, based on the applicant's information, that the proposed stormwater system would adequately cope with the additional run-off resulting from the proposal. As stated earlier, it would provide some benefit to residents of Holyhead Road by reducing the incidence of flooding across the road during significant rainfall events. However, this is not sufficient to offset the adverse effects of the proposal.

Decision PPC 14/7.10

The Committee's decision is to:

- (i) **reject** the submissions of Wendy Ockwell (PC14-6/f), Carol Bryan (PC14-7/x), Rebecca and Gregory McSkimming (PC14-13/f), Otago Regional Council (PC14-12/f), Rebecca and Peter Brookland (PC14-14/f) and the further submissions of Wayne and Fiona Crampton (PC14-FS2).

Reason for Decision

- (i) It is our decision to decline the plan change. The submission points are therefore no longer relevant.

7.11 Effects of the Stormwater Detention Pond on Amenity Values**Submissions**

Submitter	Submission Point	Further Submission
Allan and Esther Hill (PC14-5/h)	Feel that the proposed retention pond will become stagnant and smelly. They are concerned as they live directly adjacent to it.	Wayne and Fiona Crampton (PC14-FS2) support this submission.
Wendy Ockwell (PC14-6/f)	Further contends that there is a potential health and safety risk associated with sandflies, and the potential danger to children of a new pond.	Wayne and Fiona Crampton (PC14-FS2) support this submission.
Raymond and Evelyn Beardsmore (PC14-10/f)	Feel that the detention pond could become a nuisance (mosquitoes/sandflies) and that the drain under the state highway appears inadequate.	Wayne and Fiona Crampton (PC14-FS2) support this submission.
Rebecca and Peter Brookland (PC14-14/-)	The detention pond has the potential to become stagnant, resulting in stench and insects. What measures will be undertaken to ensure safety around pond?	Wayne and Fiona Crampton (PC14-FS2) support this submission.

Discussion

The submitters raised the issue of the detention pond becoming stagnant and providing a breeding ground for mosquitoes and sandflies, as well as posing a safety risk to children. The submissions were supported by W and F Crampton.

The applicant's evidence suggested that adverse effects on amenity values were unlikely to occur. However, since we have decided to reject the application, the submission points are no longer relevant.

Decision PPC 14/7.11

The Committee's decision is to:

- (i) **reject** the submissions of Allan and Esther Hill (PC14-5/h), Wendy Ockwell (PC14-6/f), Raymond and Evelyn Beardsmore (PC14-10/f) and Rebecca and Peter Brookland (PC14-14/-), and the further submissions of Wayne and Fiona Crampton (PC14-FS2).

Reasons for Decision

- (i) It is our decision to decline the plan change. The submission points are therefore no longer relevant.

7.12 Other Infrastructure**Submissions**

Submitter	Decision Sought	Further Submission
Allan and Esther Hill (PC14-5/f)	Is concerned about the ability of the town's infrastructure to cope with the additional development as there are two other current subdivisions in Outram.	

Discussion

A and E Hill considered that existing infrastructure within Outram, including the school, shops, roadways and footpaths, would not cope with the additional housing, when considered in addition to two other subdivisions being built in Outram. They seek that the plan change be declined.

We heard no evidence to suggest that additional development would add strain to Outram's roadways, shops and schools. However, given our decision to decline the application, the submission point is no longer relevant.

Decision PPC 14/7.12

It is recommended that the Committee:

- (i) **reject** the submission of Allan and Esther Hill (PC14-5/f).

Reasons for Decision

- (i) It is our decision to decline the plan change. The submission points are therefore no longer relevant.

7.13 Traffic

Submissions

Submitter	Submission Point	Further Submission
Jennifer Allen (PC14-3/g)	Feels there is a pressing need to reduce the speed limits in the vicinity of the proposal.	
Raymond and Evelyn Beardsmore (PC14-10/g)	Maintain a speed limit of 50 kph until nearer the Taieri Bridge, then 70 kph until past McArthur's Berry Farm.	NZTA (PC14-FS2) opposes the suggestion that there will be traffic safety issues in relation to the access to SH87.
NZTA (PC14-11/g)	Sight distance at SH87 intersection insufficient and needs to be improved. Include an issue advising of the need for this. Include a rule requiring acoustic insulation for dwellings within 80 m of the SH87 road seal.	Wayne and Fiona Crampton (PC14-FS1) oppose the suggestion that all vehicles to enter via Holyhead Street
Otago Regional Council (PC14-12/-)	Considers an access to the State Highway is unacceptable from a traffic safety perspective when there is an existing access to a low speed road (Holyhead Street).	Wayne and Fiona Crampton (PC14-FS1) oppose the recommendation for all vehicles to enter via Holyhead Street. NZTA (PC14-FS2) opposes the suggestion that there will be traffic safety issues in relation to the access to SH87.
Rebecca and Gregory McSkimming (PC14-13/g)	Are concerned about the additional traffic volumes accessing the main road and Holyhead Street. They seek that the plan change be declined until the Council has addressed the town's infrastructure problems with permanent solutions.	
Rebecca and Peter Brookland (PC14-14/g)	Are concerned that sight distances for the main road entrance have been over estimated. Challenge speed assumptions made in the application in relation to traffic behaviour and that traffic does not drop to 85k in this location. The area is known for frosts in the winter months. Mountfort Street (SH87) is currently inadequate to handle construction traffic and additional volumes arising from the proposal. Question the responsibility for maintenance and contend that the road needs widening and resurfacing.	Wayne and Fiona Crampton (PC14-FS1) support the submissions point relating to width, kerbing, footpaths, traffic volume, noise, safety and congestion. NZTA (PC14-FS2) opposes the submission that traffic does not slow to 85 kph at the corner.

	<p>Refute the assertion in the application that the carriageway is 20m wide.</p> <p>Increased traffic will result in amenity impacts in Holyhead Street and confusion at the intersection.</p> <p>The proposed cycleway/walkway will not work.</p>	
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Discussion

Many submissions raised the issue of traffic volume and traffic safety. Given our decision to decline the application, we do not need to consider all the matters raised in detail. As a general comment, we accept NZTA's comments, as the experts on this matter, that access onto the State Highway is acceptable from a safety point of view. As discussed earlier, we also accept Ms Clifford's comments in relation to the design of the subdivision and connectivity with Outram. This was one of the matters leading to our decision to reject the proposal. Given our decision, the submissions are no longer relevant and are therefore rejected.

Decision PPC 14/7.13

The Committee's decision is to:

- (i) **reject** the submissions from Jennifer Allen (PC14-3/g), Rebecca and Peter Brookland (PC14-14/g), Rebecca and Gregory McSkimming (PC14-13/g), Otago Regional Council (PC14-12/-), Raymond and Evelyn Beardsmore (PC14-10/g), NZTA (PC14-11/g) and the further submissions of Wayne and Fiona Crampton (PC14-FS1) and NZTA ((PC14-FS2).

Reasons for Decision

- (i) The speed limit on SH87 is a matter for NZTA to address as it considers appropriate.
- (ii) It is our decision to decline the plan change. The submission points are therefore no longer relevant.

7.14 Loss of High Class Soils

Submissions

Submitter	Submission Point	Further Submission
Brian Miller (PC14-8/h)	There is no information on effects on high class soils, no classification of soil types, and no mention soil maps will be changed. Application is incomplete and should be withdrawn.	
Raymond and Evelyn Beardsmore (PC14-10/h)	The loss of high class soils should not be allowed.	

Discussion

The issue of high class soils was discussed in section 5 of this decision, and loss of these soils contribute to our decision to decline the application. The submissions are accepted.

Decision PPC 14/7.14

It is the Committee's decision to:

- (i) **accept** the submissions of Brian Miller (PC14-8/h) and Raymond and Evelyn Beardsmore (PC14-10/h)

Reasons for Decision

- (i) High Class Soils are an important contributor to the productive capacity of the land. Given the finite nature of the soils, it is important to consider and protect those soils for the needs of current and future generations.
- (ii) District Plan policy 6.3.10 specifically refers to the protection of the High Class Soils. The policy explanation notes that residential spread has the ability to affect the productive use of the resource. The proposal is in conflict with this policy. This is also supported in the Spatial Plan

7.15 Natural Hazards

Submissions

Submitter	Submission Point	Further Submission
Raymond and Evelyn Beardsmore (PC14-10/h)	Flood risk to area is high. There is a spillway at the northern end of proposed subdivision. A large flood is overdue. If the land floods it would be a huge problem, compared to if the land remains rural.	
Otago Regional Council (PC14-12/h)	Concern about the proximity to the North Taieri fault. Geo-technical issues may occur both within excavation sensitive areas and within the site in general, and have not been sufficiently addressed. Note site would be subject to inundation should spillway operate.	

Discussion

As discussed earlier, we are generally satisfied that the risk of flooding at the subject site is low, and that the risk of significant damage from earthquakes can be mitigated. There are unresolved issues with regards to the risk of piping causing failure of the stopbank. Since we have decided to decline the application for other reasons, we have not sought the additional information that would be necessary to resolve this issue.

Decision PPC 14/7.15

It is the Committee's decision to:

- (i) **reject** the submissions from Otago Regional Council (PC14-12/h) and Raymond and Evelyn Beardsmore (PC14-10/h)

Reasons for Decision

- (i) It is our decision to decline the plan change. The submission points are therefore no longer relevant.

8.0 SECTION 32 ANALYSIS

The applicants submitted an evaluation under Section 32(1)(d) of the Act with their application. Pursuant to s32(2)(a) of the Act, a further evaluation must be made before making a decision.

The evaluation must examine the extent to which each objective is the most appropriate way to achieve the purpose of the Act and whether, having regard to their efficiency and effectiveness, the policies and rules proposed are the most appropriate for achieving the objectives. The benefits and costs of the policies and rules, and the risk of acting or not acting, must also be considered.

The application notes that the s32 process is more applicable to the preparation of district plans, but nevertheless has prepared an analysis based on the Ministry for the Environment Quality Planning website best practice guide. Issues and relevant objectives and policies from the residential section of the plan were identified. The costs and benefits of the plan change as a whole were assessed. In relation to the risk of not acting, the application considered that retaining the rural zoning would result in the site becoming poorly maintained and detracting from the entrance to Outram. The site may also be subject to a land use that is out of keeping with the adjacent residential environment.

The proposal would not introduce any new provisions into the plan. Rather, by rezoning the land to Residential 6, it seeks to apply the objectives, policies and rules of the residential section to an area of land zoned rural. There is no dispute that the policies and rules in the residential section are the most efficient and effective to achieve the objectives in that section.

In relation to the Sustainability section of the plan (Section 4), which applies across all other sections, zoning is listed as a method to achieve the objectives (and policies). It is therefore relevant to consider whether changing the zoning of this land is the most appropriate way (along with policies and other methods) to achieve those objectives for this land.

The objectives of Section 4 are to:

- 4.2.1 Enhance the amenity values of Dunedin.
- 4.2.2 Ensure that the level of infrastructural services provided is appropriate to the potential density and intensity of development and amenity values of the area.
- 4.2.3 Sustainably manage infrastructure.
- 4.2.4 Ensure that significant natural and physical resources are appropriately protected.
- 4.2.5 Provide a comprehensive planning framework to manage the effects of use and development of resources.

The two alternatives are to retain the rural zoning or approve the re-zoning to residential. Considering the costs and benefits of rezoning, one major benefit of rezoning to Residential 6 is to increase the resilience of Outram township. However no analysis has been carried out as to whether Outram needs additional residents to ensure resilience, or whether the current population level is already sufficient to ensure that services can be retained. There is also the benefit of use of a currently un-economic rural site and, for the applicant, obtaining a greater return from its land. Enabling those who wish to live in Outram to do so is also a benefit, as is providing choice for those who seek a larger lot size.

The most significant costs are the inefficient development of land resulting from expanding the urban boundary when residential capacity exists elsewhere, the large lot size and the loss of high class soils. Allowing development to occur here would erode the ability of the Council to sustainably provide infrastructure elsewhere. It is also contrary to the direction that the Council is trying to achieve through the Spatial Plan, by focussing on existing settlements rather than allowing expansion into the rural zone. It would therefore erode the planning framework. In this regard, the re-zoning is contrary to District Plan objectives 4.2.3, 4.2.4 and 4.2.5. Furthermore, it would not enhance the amenity values of Outram and so is inconsistent with 4.2.1.

Consequently, we do not consider that the development is the most efficient and effective means of achieving the objectives.

9.0 PART II MATTERS

The District Plan must meet the overall purpose of the Act as set out in section 5. That is, it should allow the local community to provide for its wellbeing, health and safety while sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations (s5(a)), safeguarding the life-supporting capacity of air, water, soil, and ecosystems (s5(b)) and seeking to avoid, remedy or mitigate any adverse effects of activities on the environment (s5(c)).

In addition, section 7 requires that particular regard be given to the efficient use and development of natural and physical resources (s7(b)); the maintenance and enhancement of amenity values (s7(c)); and the maintenance and enhancement of the quality of the environment (s7(f)).

Residential development will remove the ability to productively use the high class soils for present or future generations. While the Taieri Plain features large tracts of productive soils, and the subject area is small (6.7 ha), development within the wider area is cumulatively diminishing the productive potential. The proposal, along with other similar developments, will reduce the life-supporting capacity of the soil and its potential to meet the needs of future generations. We do not consider that the lack of economic use for the land in recent years will necessarily be the case in the future.

With regard to Section 7(b), the proposal does not represent the efficient use and development of natural and physical resources. The District Plan and Spatial Plan sets a strategic direction of intensifying existing urban centres in order to achieve efficient use of land and infrastructural capacity. While there is capacity within existing centres, unplanned expansion of Outram is inconsistent with this policy direction. Development here would erode the ability of the Council to make efficient use of infrastructure elsewhere. Furthermore, the sections proposed are large and so do not represent the most efficient use of land.

The proposal will adversely affect the amenity and quality of the environment in the local area (s7(c), (f)).

Overall, we consider that the proposal will result in inefficient use of the land resource and will contribute to loss of the productive land resource. We consider that the proposal does not represent sustainable management within the meaning of the Act.

10.0 DECISION AND REASONS

We decline the proposed plan change to the extent that it seeks to rezone Lot 2 DP 20759 and Lot 1 DP 17247. We approve the part of the plan change that seeks to re-locate Balmoral homestead (Historic Building Registration B651) to its proper location on Lot 2 DP 20759 on Planning Map 7.

The reasons for our decision are as follows:

1. The proposal is generally inconsistent with the objectives and policies of the Sustainability Section of the District Plan.
2. The proposal is inconsistent with the Spatial Plan's overall objective for Dunedin's urban form and the associated urban form policies.
3. The proposal will result in the loss of high class soils and therefore will not sustain the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations.
4. The proposal does not represent the efficient use of land and infrastructure.
5. The design does not provide for good connectivity with Outram, and limits the benefits to the town.

A handwritten signature in black ink, appearing to read 'Colin Weatherall', with a stylized, flowing script.

Colin Weatherall

CHAIR