

**BEFORE THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY**

ENV- CHC-2018

IN THE MATTER

Of an appeal pursuant to clause 14
of the First Schedule of the
Resource Management Act 1991

BETWEEN

UNIVERSITY OF OTAGO

Appellant

AND

DUNEDIN CITY COUNCIL

Respondent

NOTICE OF APPEAL

**GALLAWAY COOK ALLAN
LAWYERS
DUNEDIN**

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To: The Registrar

Environment Court

Christchurch Registry

1. The University of Otago, appeals against decisions of the on the following:
 - (a) The Dunedin City Council Proposed District Plan.
2. The University made a submission regarding the Dunedin City Council Proposed District Plan: OS308; FS2142.
3. The University is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. I received notice of the decision on 7 November 2018.
5. The decision was made by .
6. The decision points that the University is appealing are:

General matter	Submission references	Decision report topic number
Definitions of Campus and Campus Affiliated Office	308.326 308.327 308.328 308.330 308.333	3.1.1
Retail and restaurant activities	308.71 308.364 308.332 308.351 308.352	3.1.2
Landscaping issues in the Campus Zone	308.373	3.1.7.1
Building height in the Campus Zone	308.378	3.1.6
Subdivision within the Campus Zone	308.334	3.1.5
Centres approach	308.58 308.59	3.1.2 4.4.1 (CMUZ)

	308.60 308.70 308.294 308.59 308.286 308.287 308.294	
Major facilities in other zones	308.307 308.319	4.2.1.2 (CMUZ)
Hazard 3 (Coastal) Overlay	308.470	3.11.4 (Natural Hazards)
Princes Parry Harrow Zone	308.284 2142.6	3.12.11
Hazardous Substances	308.361 308.218 308.435 2142.17	3.2.3.6
Heritage policies	308.253	3.2.4.1
Heritage – 692 Cumberland Street	308.394	3.9.5.2
Heritage – Dundas Castle Street Precinct	308.398 2142.15 2142.13 2142.8 2142.4	3.11.2.2
Trees	308.159	3.3.2, 3.4.1, 3.4.2
Zone extent- Commercial and Mixed Use zones- Albany Street, Great King Street to Ethel Benjamin Place	308.286	4.7.5.4 (CMUZ)

7. The reasons for my appeal are:

General matter	Submission references	Reasons
Definitions of Campus and Campus Affiliated Office	308.326 308.327 308.328 308.330 308.333	1. The definitions are inconsistent with the outcome of expert caucusing. 2. The wording of the definition of Campus-affiliated office is problematic both in terms of compliance and the

		DCC's ability to consistently administer the Plan's provisions. 3. The Council's decision fails to recognise that the Campus zone functions as a Centre, and is not subject to objective 2.3.2 Centres Hierarchy.. 4. The definition may have the effect of precluding start up ventures in conjunction with University research activities.
Retail and restaurant activities	308.71 308.364 308.332 308.351 308.352	1. There is demand to provide greater retail choice on the Campus, particularly to provide convenient services to staff and students. 2. The Council's decision fails to recognise that the Campus zone functions as a Centre, and is not subject to objective 2.3.2 Centres Hierarchy. 3. The decision fails to account for the similar nature of effects that may result from activities that require consent, compared with those activities that are permitted. 4. Provision for only "ancillary" retail and restaurant activities is uncertain and problematic to consistently administer.
Landscaping issues in the Campus Zone	308.373	Policy 34.2.2.4 and Rule 34.6.1. Is inappropriate to the Campus Zone because: 1. The entire campus is managed and developed as an integrated whole by the University. Management on a site by site basis is inappropriate and lacks an integrated approach to the campus' function. 2. The rule is uncertain and unlawful. 3. Will result in a waste of land resources available to the University. 4. There is no environmental risk that the rule is required to manage.

Building height in the Campus Zone	308.378	Policies 34.2.2.7 and 34.2.2.8 are unrelated to objective 34.2.2, unnecessary, unclear, and difficult to administer. The reference to “road frontages” makes Rule 34.6.6 uncertain.
Subdivision within the Campus Zone	308.334	Policy 34.2.1.7 does not enable the efficient and effective operation of the University.
Centres approach	308.58 308.59 308.60 308.70 308.294 308.59 308.286 308.287 308.294	The University of Otago and Otago Polytechnic have vital social and economic importance to Dunedin and their function is not subordinate to any other zone. The Council’s decisions fail to recognise that the Campus zone is not subject to objective 2.3.2 Centres Hierarchy.
Major facilities in other zones	308.307 308.319	The University is a key stakeholder in the Harbourside Edge zone, but the full range of the University’s activities are not adequately provided for through provision for only training and education as a permitted activity.
Hazard 3 (Coastal) Overlay	308.470	Rule 11.3.4 is inappropriate in the Campus zone because the University has a large portfolio of buildings outside of the Hazard 3 (Coastal) Overlay Zone that can be used for residential activity in the event of inundation from coastal hazard. The University is therefore best placed to manage the risk to its assets. The University’s buildings used for residential activities are likely to be multi-storey buildings and therefore not relocatable.
Princes Parry Harrow Zone	308.284 2142.6	The whole block bounded by Parry Street, Anzac Ave, and Minerva Street is of strategic importance to the future development of the University.

Hazardous Substances	308.361 308.218 308.435 2142.17	Hazardous substance storage is managed through other legislation and duplication of that function does not assist to manage effects on the environment, but adds only cost.
Heritage policies	308.253, 308.69	The policies that apply beyond heritage buildings and sites are overly restrictive. Policy 2.4.2.3 and policies 13.2.3.1-10 should be amended to provide greater flexibility in the use and development of sites because protection is not warranted for buildings of lesser value.
Heritage – 692 Cumberland Street	308.394	B051 is of insufficient technical or heritage value to justify protection and is a significant strategic asset for development.
Heritage – Dundas Castle Street Precinct	308.398 2142.15 2142.13 2142.8 2142.4	1. The precinct should be excluded from the Campus zone because it forms part of the operational campus rather than a residential precinct. 2..Buildings CC214-CC232 should also be excluded for the same reason. 3. That part of the Precinct that is comprised of the lobe bounded by Clyde Street, Forth Street, Harbour Terrace, and Dundas Street should be excluded from the precinct because it does not warrant protection and is strategically important for future Campus development.
Trees	308.159	1. The Health and Safety at Work Act requires all risks to be eliminated or minimised, not just significant risk. Policy 7.2.1.2 creates an unreasonable barrier to risk management. 2. Non-complying activity status is not justified because it may frustrate the attainment of competing policy considerations. Discretionary activity status is more appropriate to allow all

		relevant matters to be evaluated on their merits. 3. Mandatory public notification is not justified. Sections 95A-G enable notification to be evaluated in the light of the circumstances of each tree.
Zone extent- Commercial and Mixed Use zones- Albany Street, Great King Street to Ethel Benjamin Place	308.286	The subject sites are critical links between the two Campus zones that have been mapped. The properties function as part of the Campus and their management and development is integral to creating a unified and cohesive Campus environment. In conjunction with other relief in this appeal, retail and restaurant activities should be recognised and provided for in the Campus zone.

8. I seek the following relief:

General matter	Submission references	Relief Sought
Definitions of Campus and Campus Affiliated Office	308.326 308.327 308.328 308.330 308.333	Replace with the definition agreed by the experts' caucus.
Retail and restaurant activities	308.71 308.364 308.332 308.351 308.352	1. Amend policy 34.2.1.3 by deleting the words "ancillary to Campus" 2. Delete policy 34.2.1.5. 3. Amend rule 34.3.3.16 by deleting the words "ancillary to Campus". Delete rule 34.5.3.1.
Landscaping issues in the Campus Zone	308.373	Delete Policy 34.2.2.4 and Rule 34.6.1. entirely
Interpretation of height in the Campus Zone	308.378	Delete policies 34.2.2.7 and 34.2.2.8. Delete all references to "road

		frontages" in rule 34.6.6
Subdivision within the Campus Zone	308.334	Delete Policy 34.2.1.7
Centres approach	308.58 308.59 308.60 308.70 308.294 308.59 308.286 308.287 308.294	Include the Campus Zone expressly as a Centre in objective 2.3.2. Delete: policy 34.2.1.4 (b), and policy 34.2.1.5 (c).
Major facilities in other zones	308.307 308.319	Include Campus activity as a permitted activity in rule 18.3.4 in the Harbourside Edge zone.
Hazard 3 (Coastal) Overlay	308.470	Amend rule 11.3.4 to read: "In the hazard 3 (coastal) overlay zone <u>except the Campus Zone or in relation to Student Hostels...</u> "
Princes Parry Harrow Zone	308.284 2142.6	Rezone the whole block bounded by Parry Street, Anzac Ave, and Minerva Street to Campus zone.
Hazardous Substances	308.361 308.218 308.435 2142.17	Delete policy 9.2.2.11, rule 9.3.4.1(c) and 34.6.5
Heritage policies	308.69 308.247 308.253	1. Amend policy 2.4.2.3 to include reference to the Campus zone in paragraph (a). 2. Amend policies 13.2.3.1-2 by deleting the word "Require" at the start of each policy and replace with "Encourage". 3. Amend policies 13.2.3.5, 13.2.3.6, and 13.2.3.7 By deleting the word "Only" from that start of each policy.
Heritage – 692 Cumberland Street	308.394	Remove from schedule A1.
Heritage – Dundas Castle Street Precinct,	308.398 2142.15	1. Delete the precinct to the extent that it is within the Campus zone

	2142.13 2142.8 2142.4	because it forms part of the operational campus rather than a residential precinct. 2. Buildings CC214-CC232 should also be deleted for the same reason. 3. That part of the Precinct that is comprised of the lobe bounded by Clyde Street, Forth Street, Harbour Terrace, and Dundas Street should be deleted.
Trees	308.159	1. Delete the word "significant" from policy 7.2.1.2(a). 2. Amend rule 7.3.2.3 so that the activity status is discretionary. 3. Delete rule 7.4
Zone extent- Commercial and Mixed Use zones- Albany Street, Great King Street to Ethel Benjamin Place	308.286	Rezone Albany Street between Great King Street and Ethel Benjamin Place as Campus Zone.

9. I attach the following documents to this notice:

- (a) A copy of my original submission and further submission;
- (b) A copy of relevant decisions; and
- (c) A list of names and addresses of persons to be served with a copy of this notice.



P J Page

Solicitor for the Appellant

DATED 19 December 2018.

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Advice to Recipients of Copy of Notice

How to Become a Party to Proceedings

You may be a party to the appeal if you made a submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court, and serve copies on the other parties, within 15 working days after the period for lodging a notice of appeal ends. Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

How to Obtain Copies of Documents Relating to Appeal

The copy of this notice served on you does not attach a copy of the relevant decision. These documents may be obtained, on request, from the Appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington or Christchurch.

Name	Address	Email Address
Dunedin City Council	PO Box 5045, Dunedin 9054	2qpappeals@dcc.govt.nz
Bindon Holdings Limited (FS2471)	C/- Mitchell Partnerships PO Box 489 Dunedin 9054	Megan.justice@mitchellpartnerships.co.nz
Niblick Trust (FS2247)	C/- Allan Cubitt 11 Bedford Street, St Clair, Dunedin 9012	allan@cubittconsulting.co.nz
NZ Transport Agency (OS881)	C/- Kirsten Tebbut PO Box 5245 Moray Place, Dunedin 9058	Planning-dunedin@nzta.govt.nz
Otago Museum Trust Board (OS267, FS2480)	PO Box 6202 Dunedin North, Dunedin 9059	Murray.bayly@otagomuseum.nz
Otago Polytechnic (FS2448)	C/- Mitchell Partnerships Limited PO Box 489 Dunedin 9054	Louise.taylor@mitchellpartnerships.co.nz
Southern District Health Board (SDHB) (OS917, FS2370)	C/- Public Health South, Private Bag 1921, Dunedin 9054	Andrew.shand@southerndhb.govt.nz
The Otago Polytechnic Students Association	PO Box 5381 Moray Place, Dunedin 9058	Lesley.scoullar@op.ac.nz

(OS268.8) a		
Otago Regional Council OS908	Private Bag 1954, Dunedin 9054	Warren.hanley@orc.govt.nz
Chalmers Properties Ltd (FS2321)	PO Box 8, Port Chalmers 9050	rhibbs@chalmersproperties.nz
Construction Industry and Developers Association OS997	C/- Emma Peters PO Box 5724 Moray Place, Dunedin 9058	emma@sweepconsultancy.co.nz
Tony MacColl OS98.3	130 York Place, Central Dunedin, Dunedin 9016	Tmccoll130@gmail.com
The Otago Chamber of Commerce (OS1028.2)	PO Box 5713 Moray Place, Dunedin 9058	admin@otagochamber.co.nz
Property Council New Zealand (OS317.57)	PO Box 1033 Shortland Street, Auckland 1010	alex@propertynz.co.nz
Jack Austin (OS53.12)	PO Box 1, Port Chalmers 9050	jaxresources@hotmail.com
Carol Devine (OS252.23)	6 View Street, Dunedin Central, Dunedin 9016	caroldevine@me.com
Margaret Davidson (OS417.18)	740G George Street, Dunedin 9016	megdavidson@actrix.co.nz
David Murray (OS849.49)	160 Rolla Street Normanby, Dunedin 9010	mevad@xtra.co.nz
Heritage New Zealand	PO Box 5467 Moray Place,	jodea@heritage.org.nz

(FS2440.25 and 27)	Dunedin 9058	
Elizabeth Kerr (FS2429.140 and 104)	5/5 Pitt Street, North Dunedin, Dunedin 9016	ejkerr@ihug.co.nz
Rosalind Whiting (FS2050.3)	80 Duncan Street, Dunedin 9016	
KiwiRail Holdings Limited (OS322.99)	PO Box 593, Wellington 6140	Rebecca.beals@kiwirail.co.nz
Arthur St Neighbourhood Support (OS843.10)	9/27 Arthur Street, Dunedin 9016	Angela.tekapo@gmail.com
Liz Angelo (FS2489.10)	9/27 Arthur Street, Dunedin 9016	Angela.tekapo@gmail.com
Dunedin City Council (OS360.85)	Attn Anna Johnson, PO Box 5045 Moray Place, Dunedin 9058	districtplan@dcc.govt.nz
Colin Weatherall (OS194.2)	1118 Brighton Road, Brighton, 9035	colinweatherall@xtra.co.nz
Knox and Salmond Colleges Board (OS182.1)	19 Knox Street, North East Valley, Dunedin 9010	board@knoxandsalmondcollege.org
Aurora Energy Limited (OS457.52)	PO Boxx 1404, Dunedin 9054	Joanne.dowd@aurora.co.nz
Powernet Limited	C/- Mitchell Partnerships	Megan.justice@mitchellpartnerships.co.nz

(FS2264.21)	PO Box 489 Dunedin 9054	
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