BEFORE THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY

ENV-2018-CHC-

IN THE MATTER	Of an appeal pursuant to clause 14 of the First Schedule of the Resource Management Act 1991
BETWEEN	**GRANT MAXWELL MOTION**
	Appellant
AND	**DUNEDIN CITY COUNCIL**
	Respondent

NOTICE OF APPEAL UNDER CLAUSE 14 SCHEDULE 1 OF THE RESOURCE MANAGEMENT ACT 1991

GALLAWAY COOK ALLAN
LAWYERS
DUNEDIN

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To: The Registrar

Environment Court

Christchurch Registry

Email: Christine.mckee@justice.govt.nz

1. Grant Maxwell Motion ("GM Motion") appeals against the decision of the Dunedin City Council on the Dunedin City Second Generation Plan ("the 2GP Decision").

2. GM Motion made a submission regarding the Dunedin City Second Generation Plan (OS59).

3. GM Motion is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.

4. GM Motion received notice of the decision on 7 November 2018.

5. The decision was made by the Dunedin City Council.

6. The decision GM Motion is appealing is:

   (a) Urban Land Supply Hearings Panel Report, in particular Section 3.8.11 which refused relief to rezone 2.65 ha of my property at 312 Wakari Road (Lot 2 DP 15027 contained within Record of Title 8929) from Rural Residential 2 to Large Lot Residential 1.

7. The reasons for my appeal are:

   (a) The Council have erred in their interpretation and application of the National Policy Statement on Urban Development Capacity 2016 (NPSUDC).

   (b) The Decision fails to give effect to the NPSUDC in particular:

      (i) The 2GP Decision fails to provide enough development capacity.

(ii) The 2GP Decision does not provide sufficient diversity amongst the development capacity that is made available in the 2GP. Therefore, the 2GP Decision fails to adequately provide for the demand for different types or sizes of development and in different locations.

(iii) Some of the development capacity provided in the 2GP Decision is not commercially feasible. As a result, the 2GP Decision overstates the capacity made available by the 2GP.

(iv) The 2GP Decision relies on capacity being provided on land that is not available for development, such as the Balmacewen and St Clair Golf Courses.

(v) The 2GP Decision relies on development yields from the land identified for development that are significantly higher than what is feasible.

(vi) The 2GP Decision relies on supply being available from commercial land without any evidence as to the supply available from this source, or the likelihood of it being taken up. Further no account appears to have been given to the loss of commercial space if residential activities were to intensify in the commercial zones.

(vii) Inadequate consideration has been given to why existing residential zoned land within the urban area has not been developed and whether those reasons are likely to persist.

(viii) Inadequate consideration has been given to whether some existing housing stock will continue to remain available. This is particularly relevant in relation to South Dunedin.

(ix) The 2GP Decision places insufficient weight on market demand, particularly with respect to demand for new development capacity of large lot residential sections.

(x) The 2GP Decision fails to have adequate regard to the realities of developing land and the long lead times associated with this. This will exacerbate the identified shortfalls in the future.

(xi) The 2GP Decision fails to strike and appropriate balance between efficient development and the obligation to provide choice to the community by providing a range of dwelling types.

(c) The 2GP Decision is based on the flawed premise that rezoning is only appropriate if there is a shortfall in capacity and the individual sites meet the criteria of the strategic directions. Allowing a shortfall in capacity to occur or persist is contrary to the NPSUDC which requires the Council to provide sufficient capacity to meet the needs of people and communities and future generations. In doing this the NPSUDC actually compels Council's to provide a margin in excess of projected demand.

(d) The 2GP Decision is inconsistent in its treatment and reliance on demand projections and speculates as to the behaviour of the market , such as residents who wish to live on a large lot being willing to settle for standard residential sized sections provided through General Residential 1 zoning. There was no evidential basis for this speculation.

(e) The 2GP Decision places disproportionate weight on infrastructure provision to determine the appropriateness of a site for rezoning. This once again places an overarching emphasis on Council efficiency rather than the other obligations such as providing choice. This fails to recognise the matters of national significance identified in the NPSUDC. The 2GP Decision also placed insufficient weight on the evidence that funding mechanisms for infrastructure would be reviewed in light of zoning decisions. Therefore the 2GP Decision will continue to perpetuate the lack of infrastructure provision to new land within Dunedin.

(f) The Decision did not give adequate weight to the subject site being within the water service and wastewater service area and therefore not being subject to the infrastructure restraints outlined in the Decision;

(g) The Decision did not give adequate weight to the recommendations of the Reporting Officer who recommended that the lower level of development associated with Large lot Residential 1 Zoning reduces effects on amenity values and impacts on the wastewater network;

(h) The Decision not to rezone 312 Wakari Road does not achieve the Strategic Directions relevant to the site.

(i) The Decision placed too much weight on the maintenance of rural productivity in the long-term, and in doing so, created an artificial assumption about what the future environment would look like.

(j) The Decision will result in inefficient use of 312 Wakari Road and a failure to achieve the purpose of the Act with respect to the Land.

(k) The 2GP Decision does not achieve sustainable management.

8. GM Motion seeks the following relief:

(a) That 312 Wakari Road be zoned Large Lot Residential.; or

(b) In the event that the relief above is not granted Rule 17.3.5 be amended so that the activity status for general subdivision in the Rural Residential 2 Zone is Discretionary; and

(c) Costs of and incidental to this appeal.

9. I attach the following documents to this notice:

(a) A copy of my original submission;

(b) A copy of Section 3.8.11 of the Urban Land Supply Decisions Report; and

(c) A list of names and addresses of persons to be served with a copy of this notice.

B Irving

Solicitor for the Appellant

DATED this 19th day of November 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.

List of names of persons to be served with this notice

Name	Address	Email Address
Dunedin City Council	PO Box 5045, Dunedin 9054	2gpappeals@dcc.govt.nz