

IN THE ENVIRONMENT COURT
OF NEW ZEALAND

ENV-2018-CHC-

IN THE MATTER of the Resource Management Act 1991

AND of an appeal under Clause 14(1) of First Schedule to the
Resource Management Act 1991

BETWEEN GRAEME AND MARIE BENNETT
Appellant

AND DUNEDIN CITY COUNCIL
Respondent

NOTICE OF APPEAL

Clause 14(1) of the First Schedule Resource Management Act 1991

To: The Registrar
Environment Court
CHRISTCHURCH

1. **Graeme and Marie Bennett (the Appellant)** appeal against part of a decision of the Dunedin City Council (**the Respondent**) on the following Plan:

*Proposed Second Generation Dunedin City District Plan (the **Proposed District Plan or 2GP**).*

2. The Appellant made submissions on the Proposed District Plan.
3. The Appellant is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. The Appellant received notice of the decisions on or about 7 November 2018.
5. The decisions were made by the Respondent (Dunedin City Council).

Decision being appealed

6. The decisions that are being appealed are the Respondent's decisions to decline to amend the 2GP in accordance with the Appellants submissions as it relates to the Appellants property at 128D Doctors Point Road, Waitati. The Appellant sought (submission OS298.3 and OS289) that Large Lot Residential Zone (LLRZ) should replace part of the Township and Settlement Zone over the land at 128D Doctors Point and the LLRZ should extend upslope to the 110m contour. The consideration of this matter is at pages 190 – 201 of the *Urban Land Supply Decision of Hearings Panel* Report. The Appellant also sought amendment to the Significant Natural Landscape (SNL) Overlay to match the 110m contour. The Appellant sought the ability to create LLR lots to that line but not necessary the siting of dwellings at that contour. The consideration of the SNL is at paragraph 2770 of the *Natural Environment Decision of Hearing Panel* Report.
7. The Appellant considers the Respondent was incorrect to reject its submissions.

Reasons for Appeals

8. The reasons for the appeal are that the decisions in relation to the submission are not satisfactory for the following reasons:
 - 8.1 The Land ("The Land" – 128D Doctors Point Road, Waitati – part certificate of title 593513) is suitable for LLRZ development.
 - 8.2 The partial replacement of the Town and Settlement Zone with LLRZ over some of the Land in accordance with the Appellants submissions provides an opportunity to master plan the area with neighbouring land. The relationship with a neighbouring property owned by Graeme and Marie Bennett is considered to have strategic value to the local community and can be incorporated into the design outcomes and long term planning for Doctors Point.
 - 8.3 The pleasant aspect provided by The Land offers a supply (product) similar to other parts of the Doctors Point community. LLRZ will enable part of the slope to be returned to an indigenous vegetation cover and result in biodiversity enhancements for the Doctors Point area. It will allow an alternative land use to that of production forestry and reduce potential conflict between rural and residential activities.
 - 8.4 The decision (recorded at paragraph 1402) is narrow in its consideration and will not result in an opportunity for a more sustainable outcome of this land resource.
9. In addition to the matters set out in part 8. above, the general reasons for the appeal are as follows:
 - 9.1 The section 32 consideration that has been used as the basis for the Decisions version of the 2GP was deficient and did not adequately address the issues raised in the Appellant's submissions;

- 9.2 The decisions do not reflect the enabling framework set out in the Act;
- 9.3 The decisions are not consistent with the purpose and principles of the Act;
- 9.4 The decisions do not promote sound resource management practice.

Relief sought

10. The appellant seeks the following relief:

- 10.1 That the Proposed District Plan is amended in accordance with the Appellant's submissions on the 2GP;
- 10.2 Any similar or consequential relief (including but not limited to an appropriate plan/layout of subdivision for the property);
- 10.3 Costs.

11. Documents attached to this notice

Copies of the following documents are attached to this notice of appeal.

- (a) A copy of the appellant's submissions.
- (b) A copy of the relevant part respondent's decisions including the Planning Maps.
- (c) A list of the names and addresses of persons to be served with a copy of this notice.



.....
Signature of person authorised to sign
on behalf of the appellants

17 December 2018

Date

Address for service: Land Matters Limited
20 Addington Road, RD1
Otaki 5581

Telephone: 021877143

Fax: (06) 364-5142

Email: bryce@landmatters.nz

Contact person: Bryce Holmes – Principal Planner

Advice to recipients of copy of notice of appeal

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in [form 33](#)) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

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 or service requirements (see [form 38](#)).

The copy of this notice served on you does not attach a copy of the appellant's submission and (*or or*) the decision (*or part of the decision*) appealed. These documents may be obtained, on request, from the appellant.

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

Annexures

- A A copy of the Appellant's submissions.
- B A copy of the relevant part of the respondent's decisions.
- C A list of the names and addresses of persons to be served with a copy of this notice.

A A copy of the appellant's submissions.

B A copy of the relevant part of the respondent's decisions.

- C A list of the names and addresses of persons to be served with a copy of this notice.**



SUBMISSION FORM

This is a submission on the Proposed Second Generation
Dunedin City District Plan (2GP) for Dunedin pursuant to
Clause 6 of Schedule 1 of the Resource Management Act 1991

MAKE YOUR SUBMISSION:

Email: planning@dcc.govt.nz

Deliver to: DCC Customer Services Agency
Ground floor
Civic Centre
50 The Octagon
Dunedin

All submissions must be received before 5pm on Tuesday, 24 November 2015.

Full name of submitter or agent* Graeme + Marie Bennet

Organisation (if submission on behalf of an organisation)

Address for service for submitter or agent* Please provide an address where you would like correspondence sent to

Email address grahameandmarie@gmail.com

Postal address* Chelivoke St, Doctors Point RD2 Waitati 9085

Phone number* 03 48214 04 Mobile number 027 209 5527

Please note: If you are a person who could gain an advantage in trade competition through your submission, your right to make a submission may be limited by clause 6(4), Schedule 1 of the Resource Management Act 1991.

Please tick one of the following*

I could ☐ could not ☒ gain an advantage in trade competition through this submission.

If you could gain an advantage in trade competition through this submission, please tick one of the following*

I am ☐ am not ☐ directly affected by an effect of the subject matter of the submission that:

(a) adversely affects the environment; and

(b) does not relate to trade competition or the effects of trade competition

Please tick one each of the following*

I would like ☒ would not like ☐ to be heard in support of my submission

If others submitters make a similar submission, I will ☐ will not ☒ consider presenting a joint case with them at a

Contents.

ZGP Submission Form.

Written application for submission
Map "A"

Larger aerial map.

DCC Spatial Plan.

DCC LCA Assessment 26 Aug 2013

Photo of cut over forestry 2002

Photo of site 2002 and 2004

Aerial photo of site.

20 Nov 2015

Chelivode St, Dtrs Poi.

RD2 Waitati 9085

I wish to accept the zoning offered at Chelivode St Doctors Point Waitati. (See attached Map "A")

I also wish to i) amend the Landscape Overlay Zone as shown on Map "A". Currently this zone is set at the 100m contour. I would like it set at 110m contour. This would better reflect the "change in character from more settled/built lower slopes - more natural/unbuilt upper slopes". It would allow better use of the lower slopes, should they be subdivided. It would also align the landscape zone with the existing residential developments in nearby Thornicroft Road (see attached DCC LCA assessment 2013 26A).

2) I wish to have the area marked.  as shown on Map "A" rezoned to large-lot residential > 3500m². The area concerned is covered in wilding pines having been previously a pine plantation (see photos). It faces due North and is adjacent to existing residential houses. It would be accessed off Doctors Point Rd. Doctors Point has been identified as an area of future growth by the D.C.C. (see Page 62 DCC Spatial Plan). It sits outside the proposed landscape overlay zone, and has no natural "Hazards" identified. It meets all of the Key Policies which direct future management and development in the area. (a copy of the Spatial Plan with these Key policies is attached). The development would be in keeping with the large-lot residential 2 zone at the end of Doctors Point Rd. Attached are also photos of the land concerned, as a cut over forestry block in 2002, and since then.

Could this application be read in conjunction with the material submitted already, in the lead up to the Proposed District Plan being notified

The council planners will have this material already.
I wish to be heard in person when the hearing takes place.

Yours sincerely

Graeme Bennett

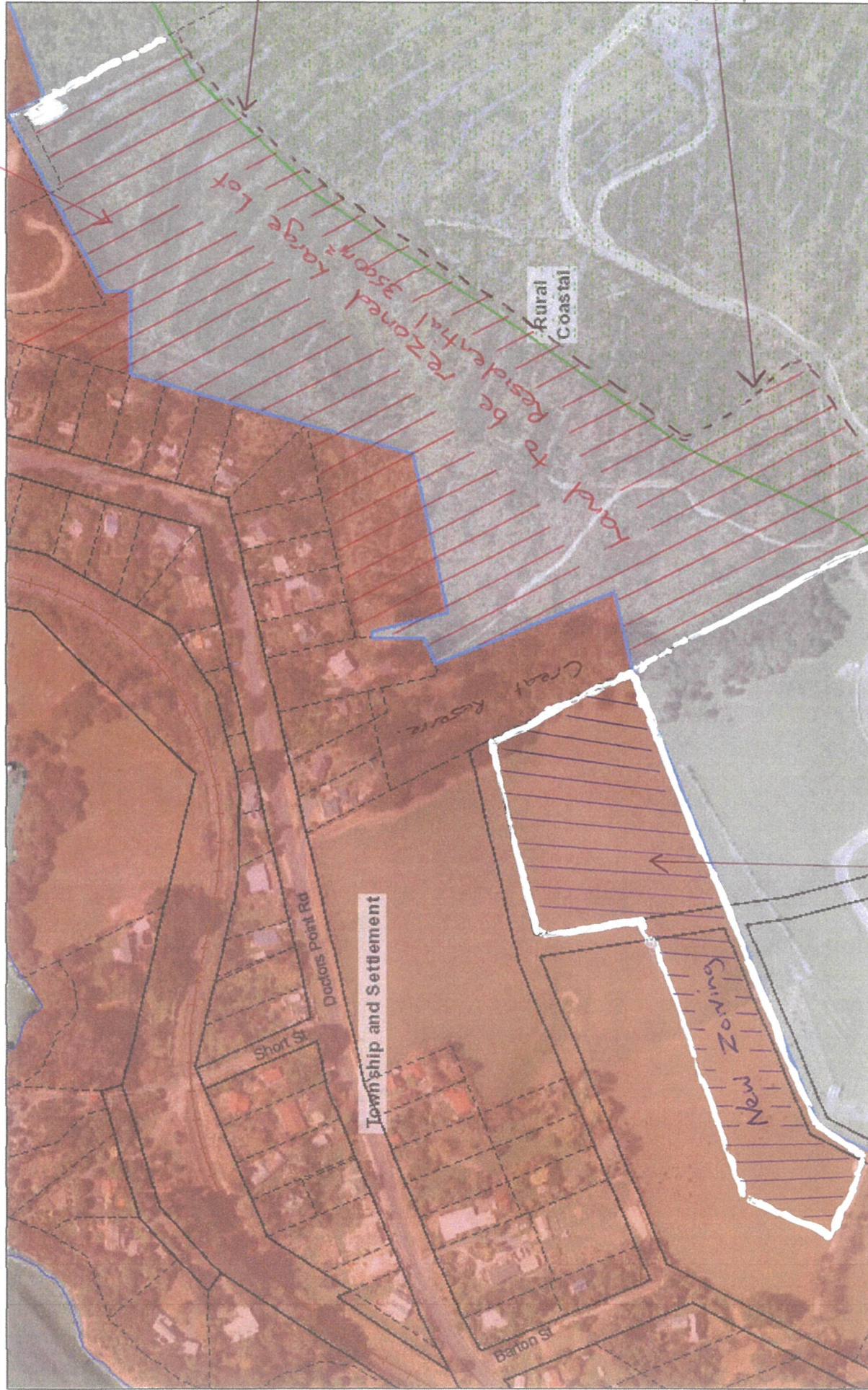
027 209 5527

03 4821404

graemeandmariebennett@gmail.com

MAP "A"

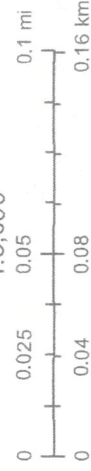
Rezoned Area '///'



Amend the
landscape
Overlay Z
to as show

November 8, 2015

1:3,000



Aerial Photography 2006/07 Copyright NZAM

I wish to accept the new Zoning
marked '///' offered by Council



upper zoning boundary
110 m contour

Waikouaiti Coast Community Board on Map 20

Vision for Waikouaiti Coast Community Board

Waikouaiti in 2050 is made up of a number of thriving communities each with their own identity and access to community renewable energy generation. The natural landscape is protected and all new development contributes positively to the environment. Waikouaiti is a leader in ecological restoration with its show pieces of Orkonui, Hikaroroa and Silverpeaks attracting visitors and local eco-tourism operators. Rivers have been restored through riparian planting with high water quality for recreational fishing leading into a restored estuary. Local visitors enjoy their stay along the coast.

Some of the key policies directing future management and development of the area

- ESR 1(a) Ensure any development or subdivision on rural land provides for the continued use and effective management of that land for productive purposes or ecosystem services. Strongly discourage any residential development or subdivision on rural land that undermines these functions or the objectives of the urban-rural boundary
- ESR 2(c) Protect areas of significant indigenous vegetation and significant habitats of indigenous fauna
- ESR 5(a) Discourage development in areas subject to, or potentially subject to, instability, flooding or tidal inundation in future
- ESR 11(a) Encourage and promote the retention and establishment of essential services and facilities in townships (e.g. schools, dairies, petrol stations)
- MEM 1(b) Protect the character and identity of the distinct rural and coastal communities in the city by preventing urban development in defined inter-urban breaks (rural or natural areas between settlements)
- MEM 1(c) Manage the location and design of development in the rural environment to protect character and landscape values of the rural environment
- MEM 3(a) Ensure all new development respects and enhances the distinct built and natural environmental context in which it is located, including land form, natural features, local character and identity
- MEM 3(b) Recognise and celebrate local identity, character, and history in the public realm and encourage the same in private developments
- VIB 2(a) Promote the central city and other centres as locations for commercial activity and strongly discourage commercial development outside of identified centres with the exception of trade-related/home improvement retail
- ACCESS 2(b) Encourage and support greater use of passenger rail
- ACCESS 6(e) Provide good multi-modal connections (including public transportation) between the central city, other centres, the Tertiary-Medical Precinct and key recreation areas

Ecological and landscape values to protect

Significant Landscape Features	Manage activities and structures to protect significant landscape features.
Areas of Significant Conservation Value	Encourage protection and management of areas of significant conservation value and identification of other areas of biodiversity value.

Residential areas change current management approach

1	Waikouaiti	When and if wastewater constraints are addressed, allow for broad range of site sizes in existing urban extent. Avoid development in low lying areas. Allow for large lot residential (with on site or private reticulation) on suitable sites.
2	Doctors Point/Waitati	Allow some expansion in suitable areas
3	Hawksbury	Encourage redevelopment and mixed use environment.
4	Warrington, Karitane, Seaciff	Retain existing levels of development and avoid low lying areas. Encourage development consistent with character values and good design.
Centres	Existing centre	Proposed centre
R	Waikouaiti and Waitati	Zone as a rural centre.
N	Karitane	Zone as a neighbourhood centre.

Rural Areas Change Current Management Approach

Rural Character Area		Protect the important landscape and rural character values from inappropriate development by strongly controlling the design and location of new development. Review the current approaches to the management of residential development in the District Plan and consider more holistic approaches that improve outcomes in relation to biodiversity restoration and enhancement, land management practices, and protection of rural productivity, amongst others.
Rural-Residential		Protect the important landscape and rural character values from inappropriate development by strongly controlling the design and location of new development. Review the minimum lot size and consider alternative mechanisms to allow for different forms of residential development where appropriate. Review the zone to better protect landscape values.

Report

To Michael Bathgate
Dunedin City Council

From Mike Moore
Consultant Landscape Architect

Date 26 August 2013

**Subject Dunedin City, Assessment of current Landscape
Conservation Areas for District Plan Review**

reflect a broad understanding of landscape including biophysical features, patterns and processes, sensory qualities, and associative meanings (NZILA 2010). They are described as follows (Peart 2004):

- Natural Science factors – the geological, topographical, ecological and dynamic components of landscape.
- Aesthetic values – including memorability and naturalness.
- Expressiveness – legibility i.e. how obviously the landscape demonstrates the formative processes leading to it.
- Transient values – occasional presence of wildlife; or its values at certain times of the day or of the year.

protected and appropriately managed as a second tier landscape (e.g. Visual Amenity Landscape or Significant Landscape). The boundaries suggested have been drawn to include the most important natural areas and the visually prominent areas, and to avoid areas of existing urban development.

Boundary definition comments

Boundary section	Explanatory comments
North-western side of Otago Harbour, Dunedin – Deborah Bay	The boundary has been drawn to reflect the general change in character from more settled / built lower slopes – more natural / unbuilt upper slopes. In most areas it adopts the 100m contour as generally indicative of this character change. In the followings areas, the boundary deviates from this as follows: • West of Ravensbourne the 40m contour is adopted to recognize the impact of the tree / bush covered slopes to lower levels and their impact in defining the harbour landscape • Adjacent to Ravensbourne and above Careys Bay the boundary is drawn to avoid areas of predominantly residential character • North of Careys Bay the Railway line has been adopted
Eastern boundary, Deborah Bay – Doctors Point	This boundary follows the north – south lateral ridgelines either side of Mihiwaka, in places, coinciding with legal road boundaries. The land to the east is proposed to be within another (Heyward Coast) Significant Landscape Area. From Deborah Bay to the ridge a watercourse is followed.
Northern boundary, Doctors Point - Hightop	The boundary has been drawn to reflect the general change in character from more settled / built lower slopes – more natural / unbuilt upper slopes as follows: * Behind Doctors Point it adopts the railway and then the 100m contour. • Behind Orokonui it lowers to include the Orokonui Reserve. • Between the Reserve and Mt Cargill Road, the 200m contour is followed. Whilst this includes areas of Rural residential zoning and development, the visual prominence

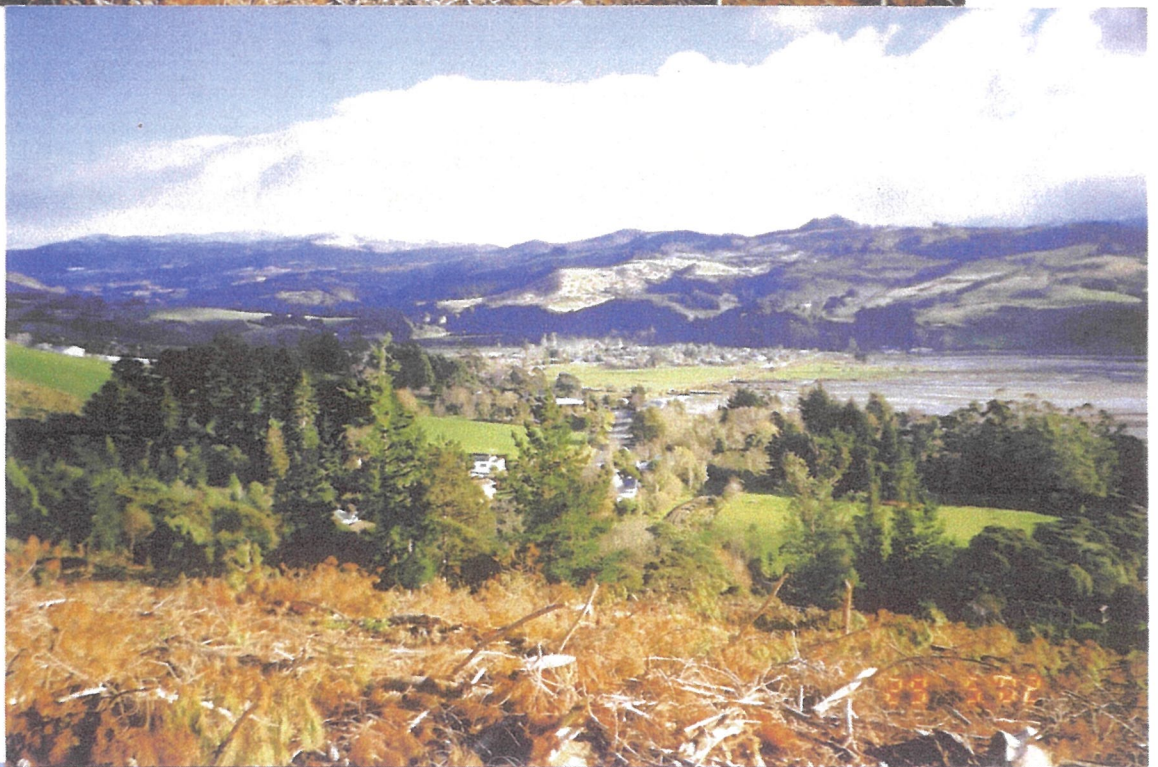
I wish this to read 100m contour and include

Cut over forestry 2002.

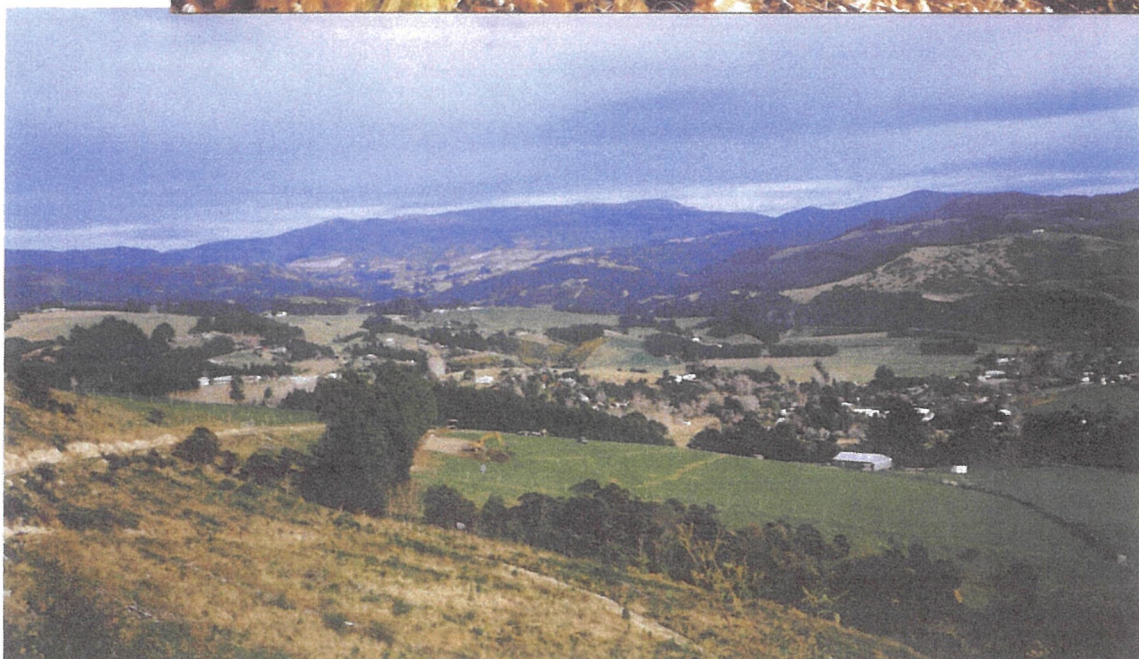




2002.



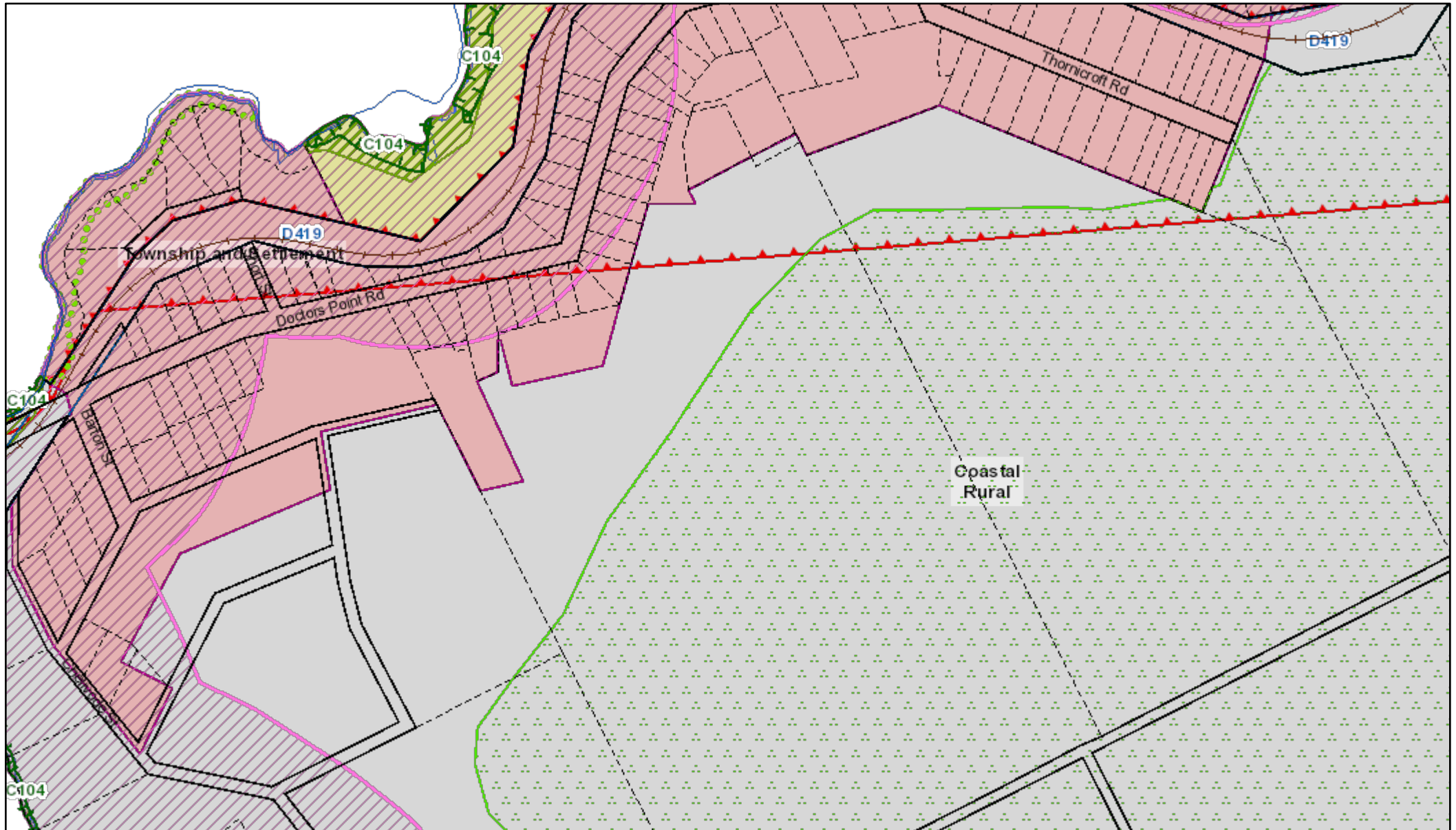
2004 2



2004 in
foreground.

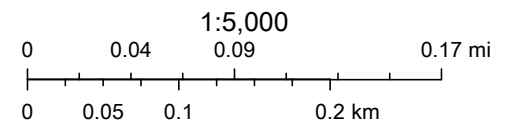


Planning Map



12/13/2018, 12:29:57 PM

- | | |
|----------------------|----------------|
| Property | — Road/Rail |
| — Railway Centreline | — Hydro |
| Parcel Boundaries | — Formed Roads |
| -- Parcel | |



Submission number		298.1 and 298.3
Parties		
Name	Ref	Address
Willowridge Developments Limited	FS2153	alison@willowridge.co.nz
Lee Paterson	OS36.1	lee.helen.paterson@gmail.com
Paul Clements	OS75.1	144 Doctors Point Road, RD 2, Waitati 9085
Geraldine Tait	OS101	gstait@clear.net.nz
David and Gillian Charters	OS128.1	2 Barton Street, RD 2, Waitati 9085
Phil & Jillian Borrie	OS129.3	phil.borrie@gmail.com
Christopher Linsell	OS141.1	PO Box 67, Waitati 9069
Frances Ross	OS148.1	sfross@xtra.co.nz
Andrew Borrie	OS150.1	Andrew.borrie@gmail.com
John Kaiser	OS165.1	belltopper@gmail.com
Wendy Harrex	OS170.1	wendyharrex@gmail.com
Liz Abbott	OS179.1	abbottliz3@gmail.com
Stephen Bourne	OS193.1	bournedownunder@hotmail.com
Hilary Newby	OS220.1	hilnewby@hotmail.com
Jessica Ross	OS222.1	jess.alice.shields@gmail.com
Gerald Fitzgerald	OS233.1	Gerald@legalfitz.co.nz
Blueskin Bay Watch Society Inc	OS240.1	blueskinbaywatch@gmail.com
Jen Rodgers	FS2413.1	jen.rodgers@op.ac.nz
Colin & Leeann Thom	OS242.1	colinthom@xtra.co.nz
Elizabeth Guthrie – Higbee	OS246.1	elizguthrie@mac.com
Anthony Parata	OS248.2	tekainga@xtra.co.nz
Rosemary Penwarden	OS260.1	12 Orokonui Road, Waitati, Dunedin 9069
Jen Rodgers	OS262.1	jen.rodgers@op.ac.nz
Campion Read	OS264.1	campionr@gmail.com
Penelope Margaret Hutchins	OS269.1	bphutch@xtra.co.nz
Hank Rebmann	OS279.2	swiwi@gmx.com
Sue Hensley	OS306.1	sue.hensley@gmail.com
Lynda Peppercorn & Ivan Bassett	OS327.1	bassnavi@yahoo.com
Nevil Melvin	OS345.1	lanmelvin18@hotmail.com
Janene Oliver	OS353.1	janeneoliver@gmail.com
Laura Dawson	OS400.7	wilbur103@hotmail.com
Elizabeth Sumpter	OS401.1	thecliffs@xtra.co.nz
Stephanie McConnon	OS415.1	mccannon@es.co.nz
Leonie Rousselot	OS467.1	lnrssl@yahoo.co.nz
Eric Meder	OS481.1	PO Box 42, Waitati 9069
Margaret Meder	OS486.1	PO Box 42, Waitati 9069
Jenni McLeod	OS511.1	delicat.mail@gmail.com
Trisha Geraets	OS520.1	trishageraets@gmail.com

Jurgen Gnoth	OS527.1	jurgen.gnoth@otago.ac.nz
David Borrie	OS533.1	d.w.borrie@gmail.com
Alexander Ross	OS545.1	sandyross@aurorahealth.co.nz
Peter Borrie	OS548.1	peterborrie@hotmail.com
Bernice Borrie	OS549.1	bereborrie@hotmail.com
Roger Belton	OS598.1	roger@nzclams.com
Karen Eve Jacquard	OS645.1	kazjacq@hotmail.com
Benedict Hugo Fernando Stewart	OS678.1	boonthehoon@gmail.com
Alasdair Morrison	OS694.1	info@calmarine.co.nz
Edmund Higbee	OS719.1	ed@idcards.co.nz
Andrew Philip Stewart	OS728.1	andy@dsmc.co.nz
Diana Margaret Struthers	OS745.1	dianastruthers@gmail.com
David Redshaw	OS803.1	dave@nzclams.com
Paul Cardno	OS808.1	paulcardno30@gmail.com
Cathrin Stewart	OS831.1	1737 Waikouaiti-Waitati Road, RD 2, Waitati 9085
Jeanette Trotman	OS963.2	clive@disputescience.com
Clive Trotman	OS970.2	clive@disputescience.com
Catherine Fitzgerald	OS983.1	catherinef@blueskinfilms.co.nz
Anna Marsich	OS1004.3	anna.marsich@gmail.com
The Waitati Beach Society Inc	OS1041.1	Gerald@legalfitz.co.nz
Morgan Trotter & Helen Keeting	OS1069.1	m.trotter@fish-game.org.nz
Lucy Wing	OS203.1	drlucywing@gmail.com
Blueskin Resilient Communities Trust	OS1070.17	blueskinbaywatch@gmail.com
Ian Scott	OS1055.1	ih@outlook.co.nz
Sabina Lobitz	OS521.1	sabinalobitz@gmail.com
Hagen Bruggemann	OS536.1	hagen.rs@slingshot.co.nz
Simon Ross	OS174.1	rossi187@gmail.com
Jamie Heaps	OS282.1	jandjheaps@yahoo.com.au
Jody Heaps	OS303.1	jody.heaps@otago.ac.nz
Stuart Strachan	OS577.1	sjstrachanz@gmail.com
David Littleton	OS971.2	dlittleton@xtra.co.nz
James Ross	OS221.1	rosja105@gmail.com
Heather Lorraine Fleming	OS472.2	heatherf@orcon.net.nz
Kāti Huirapa Rūnaka ki Puketeraki and Te Rūnanga o Ōtākou	OS1071.130	tim@ktkoltd.co.nz
Anne & Andrew McLean	OS352.2	anniemc@clear.net.nz
Michael Borrie	OS436.1	bozza_@hotmail.com
Murray Johnston	OS273.4	mjwaitati@clear.net.nz
Chris Baillie	OS192.1	Chrisbaillie77@gmail.com

Submission number		298.2
Parties		
Name	Ref	Address
Bruce Bohm	OS632.3	462 Waitati Valley Road, RD 2, Waitati 9085
G&J Sommers Edgar	OS96.2	allan@cubittconsulting.co.nz
Nigel Harwood	OS96.2	nigel@nigelharwood.co.nz
David Holdsworth	OS73.1	35 Greenacres Street, Macandrew Bay, Dunedin 9014
Shane Johnson and Sharee Watts	OS1076.1	nz_yeehaa@yahoo.com
Murray Soal	OS291.2	hillcrestfarm@xtra.co.nz
Antonie Vandervis	OS1026.1	47 Garfield Avenue, Dunedin 9010
Bruce Norrish	OS461.4	bruce.norrish@gmail.com
Graham and Nothburga Prime	OS399.1	grnmpri@unifone.net.nz
Blackhead Quarries Ltd	OS874.53	allan@cubittconsulting.co.nz
Danny Ballie	FS2351.1	danny.baillie@otago.ac.nz
Bruce McLennan	FS2322.1	mr.bruce.mclennan@gmail.com