

**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**

**YVONNE JULIE CUMMINGS**  
207 Bush Road, Mosgiel

**Appellant**

**AND**

**DUNEDIN CITY COUNCIL**

**Respondent**

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**NOTICE OF APPEAL**

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**GALLAWAY COOK ALLAN  
LAWYERS  
DUNEDIN**

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To: The Registrar

Environment Court

Christchurch Registry

1. Yvonne Julie Cummings appeals against a decision of the Dunedin City Council on the Dunedin City Council Second Generation Plan.
2. Y J Cummings made a submission regarding the zoning at 207 and 213 Bush Road, Mosgiel (OS1056)
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 decision on 7 November 2018.
5. The decision was made by Dunedin City Council.
6. The decision Y J Cummings is appealing is:
  - (a) The Rural Residential Hearing Panel Decisions report, specifically, section 3.8.7.6 where the Hearings Panel declined relief to rezone 207 Bush Road from Rural Zone (Taieri Plains) to Rural Residential 2 ("the 2GP Decision")
7. The reasons for my appeal are:
  - (a) 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.

- (b) The 2GP Decision places too much weight on the value of high class soils and LUC 1 and 3. The sites are not used for farming purposes and therefore cannot be used productively in lieu of rezoning to Rural Residential 2.
- (c) The 2GP Decision erred in placing weight on the productive value of flat topography in relation to the sites. In doing so, the 2GP Decision creates an artificial assumption that the sites will be used for rural productive land.
- (d) The 2GP Decision places too much weight on the Hazard 3 (flood) overlay given that the risk from flooding in this area is low risk.
- (e) The 2GP Decision placed too much weight on rural character values and other aesthetic considerations given that the land is not subject to a rural character landscape overlay, a landscape conversation area or any other type of visual amenity overlay. The 2GP Decisions does not consider that issues related to visual amenity of a development can be dealt with at the time of application for resource consent.
- (f) The 2GP Decision erred in finding that it would be inappropriate to rezone fully developed clusters of undersized rural sites, where doing so would create isolated patches of rural residential zoning. The 2GP Decision's approach to this issue is too restrictive.
- (g) The objectives, policies, and rules of the Taieri Plain Rural zone are inappropriate for the subject site and the Rural Residential provisions are a better fit.
- (h) Rezoning to Rural Residential 2 zone will not result in any demand for the extension of Council infrastructure.
- (i) 2GP Decision does not achieve the Strategic Directions relevant to the sites.
- (j) The 2GP Decisions fails to achieve sustainable management under the Act.

8. I seek the following relief:

(a) 207 Bush Road be rezoned as Rural Residential 2;

9. I attach the following documents to this notice:

(a) A copy of my original submission;

(b) A copy of the relevant sections of the Rural Residential Zone Report, being section 3.8.7.6;; and

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



Phil Page

Solicitor for the Appellant

**DATED** this 19<sup>th</sup> day of December 2018.

Address for service

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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**

| <b>Name</b>          | <b>Address</b>            | <b>Email Address</b>                                               |
|----------------------|---------------------------|--------------------------------------------------------------------|
| Dunedin City Council | PO Box 5045, Dunedin 9054 | <a href="mailto:2gpappeals@dcc.govt.nz">2gpappeals@dcc.govt.nz</a> |