

In the Environment Court of New Zealand
Christchurch Registry

I Te Kōti Taiao O Aotearoa
Ōtautahi Rohe

Under the Resource Management Act 1991

In the matter of an appeal under clause 14(1) of the First Schedule of the RMA
in relation to the proposed Second Generation Dunedin City
District Plan (**2GP**)

Between **Blueskin Projects Limited and Others**
(ENV-2018-CHC-276)
Federated Farmers of New Zealand Inc
(ENV-2018-CHC-254)
Bruce Wayne Taylor and the estate of Lawrence Taylor
(ENV-2018-CHC-244)
Robert Francis Wyber
(ENV-2018-CHC-281)
The Preservation Coalition Trust
(ENV-2018-CHC-285)

Appellants

And **Dunedin City Council**

Respondent

Affidavit of Jane Elliot Macleod

Affirmed *30th April* 2021

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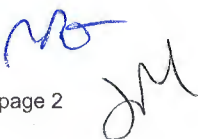
**anderson
lloyd.**

I, **Jane Elliot Macleod** of Dunedin, Senior Policy Planner, hereby solemnly and sincerely affirm:

- 1 I am a senior policy planner at Dunedin City Council.
- 2 I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014. This evidence has been prepared in accordance with it and I agree to comply with it. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
- 3 I have been employed by Dunedin City Council as a planner/ senior planner for fourteen years. For the past seven years I have primarily worked on the various stages of Dunedin's Second Generation District Plan (2GP), including research, consultation, plan drafting, submissions, hearings and appeals. I have worked on a range of 2GP topics, including network utilities, the natural environment, transport, mining, and the rural and rural residential zones.
- 4 I have a BA (Hons) in History from the University of Manchester, UK (2000), and an MSc in Environmental Studies from the University of Strathclyde, UK (2006).

Introduction

- 5 This affidavit addresses two sets of appeals:
 - (a) appeals requesting changes to the way the Plan provides for residential activity and subdivision in the rural zones, particularly in terms of the minimum site area required for new residential activities and the minimum site size required for subdivision, and
 - (b) appeals requesting changes to the Plan's strategic policies for new rural residential zoning, which determine how land suitable for this type of zoning will be identified.
- 6 These two topics are connected because in both cases the key issue is the management of the effects of additional residential development on rural productivity. The establishment of additional development in the rural environment can lead to a transition from a situation where residential activities are primarily associated with commercial farming operations, to a situation where residential activities have become the primary activity, and land that is potentially productive is used for 'lifestyle' or 'hobby' farming purposes or, in some cases, is not used for farming of any kind.



- 7 Related issues include the effects of residential activity in a rural environment on character and visual amenity, landscape and coastal character values, biodiversity and Manawhenua values, and risks from natural hazards.

Planning background and issues of concern

- 8 In Dunedin, there is increasing market pressure for rural residential living, also referred to as lifestyle blocks or hobby farms, particularly on the Taieri Plain and near the main urban area. Rural residential zoning is provided as a response to this market demand, and to form part of “a range of housing choices in Dunedin that provides for the community’s needs and supports social well-being” (strategic objective 2.6.1).
- 9 The purpose of the 2GP’s rural residential zones is to provide an appropriate location for lifestyle blocks/hobby farms, and in doing so to relieve the pressure for these activities to occur in the rural zones. I note that, unlike some other district plans, the 2GP’s rural residential zones do not include zones that provide for site sizes at the smaller end of the lifestyle scale, i.e. around 2000m² to 4000m². Instead, this size of site is provided for via a type of residential zoning (the large lot residential zones); this type of residential environment is not the subject of this affidavit.
- 10 In the 2GP, there are two types of rural residential zone. The first is the Rural Residential 1 (RR1) Zone, which is based on the rural residential zones in the Operative District Plan (ODP). In this zone, the minimum site size for subdivision is 2ha. The minimum site area for residential activity on a newly subdivided site is also 2ha. For sites created prior to the notification of the 2GP, a residential activity may be established on each site of at least 1ha.
- 11 The Rural Residential 2 (RR2) Zone was created in the 2GP in response to the fact that, under the ODP, Dunedin’s rural environment contained large numbers of “undersized” sites (i.e. sites below the ODP’s 15ha minimum site size for residential activity in the rural zone). Consents data indicated that applications for the establishment of new residential activity on undersized sites were generally granted (as non-complying activities) if the site was part of a cluster of undersized sites, some of which already contained a dwelling. The creation of the RR2 zone regularised this situation by creating a new zone for these partially developed clusters; under the rules of the RR2 zone the same outcome is achieved, without the need for resource consent. The existing site sizes for Rural Residential 2 zoned sites are generally between 4ha and 10ha.

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- 12 The RR2 Zone provides for residential activity at a density of one residential activity per existing site over 1ha, but subdivision of sites is a non-complying activity, other than in exceptional situations (e.g. where a site is being created for the protection of a scheduled Area of Significant Biodiversity Value or heritage building). The non-complying activity status for subdivision recognises that the RR2 Zone was established to enable the development of a single residential activity on vacant sites in some clusters of existing undersized rural sites that have been partly developed, and not to enable further capacity for rural residential subdivision.
- 13 Because the Plan provides specific zones for rural residential activity, it strongly discourages the conversion or use of rural-zoned land for this purpose, other than via a plan change. This is to address a range of issues that are the subject of key strategic objectives in the Plan, as follows.
- 14 The main consideration is protection of productive land from less productive uses (Objective 2.3.1). Residential activity that is not associated with commercial farming or other rural activities has the potential to be incompatible with, and give rise to reverse sensitivity effects on, rural activities taking place in the rural environment. This potential is greater if residential activity takes place on small sites; in these cases, dwellings may be established closer to boundaries with working farms and other established, effects-generating rural activities. Also, if site sizes are not of a sufficient scale to support farming activities, this may lead to the perception of these areas as being akin to a rural residential or even large lot residential zone, which may make complaints about rural activities more likely. In addition, fragmentation of productive rural land into smaller lots, via subdivision for residential purposes, is likely to result in a loss of its productive capacity or productive efficiency.
- 15 The rural environment also has many other values that may be threatened by residential development at a 'rural residential' or 'lifestyle' scale, and that other strategic direction objectives in the Plan seek to protect, as follows:
- (a) indigenous biodiversity (Objective 2.2.3)
 - (b) elements of the environment that contribute to aesthetic appreciation for and enjoyment of the city, e.g. open spaces (Objective 2.4.1)
 - (c) natural landscapes and features (Objective 2.4.4)
 - (d) natural character of the coastal environment (Objective 2.4.5)

- (e) character of the rural environment (Objective 2.4.6)
 - (f) Manawhenua values, particularly those of wāhi tūpuna (Objective 2.5.3)
- 16 In addition, the Plan seeks to achieve certain other strategic objectives that may be undermined by increased residential development in the rural environment, including:
- (a) reduced risk from natural hazards (Objective 2.2.1)
 - (b) improved energy resilience including increased capacity for local food production (Objective 2.2.2)
 - (c) a compact and accessible city (Objective 2.2.4)
 - (d) efficient public infrastructure (Objective 2.7.1)

Rural residential strategic

- 17 The Plan seeks to balance the potential tension between Objective 2.6.1 (housing choice) and the other objectives referred to above by carefully defining the circumstances in which new rural residential zoning should be considered, and the criteria that areas to be rezoned rural residential should meet, via policies 2.6.1.3, 2.6.1.4 and 2.6.1.5, as follows.

Policy 2.6.1.3

Apply rural residential zoning to clusters of sites in separate land tenure already developed or mostly developed for rural residential activity before 7 November 2018, and that meet the criteria in Policy 2.6.1.5, as follows:

- a. where the cluster comprises sites already subdivided, or which have consent to subdivide, to an average density of greater than 2ha and less than 4ha, and are either already being used for rural residential activity or there is a high degree of likelihood they will be developed for rural residential activity in the short term, Rural Residential 1 zoning is appropriate; and
- b. where the cluster comprises sites each under 15ha with an average site size of generally between 4ha and 10ha, Rural Residential 2 zoning is appropriate.

Policy 2.6.1.4

Apply new rural residential zoning only where:

- a. there is a demonstrated shortage of rural residential land for lifestyle farming or hobby farming;

- b. the amount of land zoned rural residential appropriately balances providing some land resource for lifestyle farming or hobby farming with the overall Plan objectives that:
 - i. Dunedin stays a compact and accessible city with resilient townships based on sustainably managed urban expansion. Urban expansion only occurs if required and in the most appropriate form and locations (Objective 2.2.4);
 - ii. public infrastructure networks operate efficiently and effectively and have the least possible long term cost burden to the public (Objective 2.7.1); and
 - iii. the multi-modal land transport network, including connections between land, air and sea transport networks, operates safely and efficiently for all road users (Objective 2.7.2);
- c. the proposed zoning meets the criteria contained in Policy 2.6.1.5; and
- d. the plan change proposal:
 - i. considers first rezoning of Rural Residential 2 to Rural Residential 1 land to increase capacity;
 - ii. considers next rezoning of any remaining clusters of sites below the minimum site sizes in the rural zones; and
 - iii. only after the options in clause i and ii are assessed as inappropriate and/or unfeasible, considers the conversion of other rural sites to rural residential land.

Policy 2.6.1.5

Identify areas for new rural residential zoning in accordance with Policy 2.6.1.4 based on the following criteria:

- a. the land is unlikely to be suitable for future residential zoning in line with Policy 2.6.2.1;
- b. rezoning is unlikely to lead to pressure for unfunded public infrastructure upgrades including road sealing, unless an agreement between the infrastructure provider and the developer on the method, timing, and funding of any necessary public infrastructure provision is in place; and
- c. considering the zoning, rules, and potential level of development provided for, the zoning is the most appropriate in terms of the objectives of the Plan, in particular:

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- i. the character and visual amenity of Dunedin's rural environment is maintained or enhanced (Objective 2.4.6);
- ii. land and facilities that are important for economic productivity and social well-being, which include industrial areas, major facilities, key transportation routes, network utilities and productive rural land are:
- iii. protected from less productive competing uses or incompatible uses, including activities that may give rise to reverse sensitivity; and
- iv. in the case of facilities, able to operate efficiently and effectively (Objective 2.3.1). Achieving this includes generally avoiding areas that are highly productive land or may create conflict with rural water resource requirements;
- v. Dunedin's outstanding and significant natural landscapes and natural features are protected (Objective 2.4.4). Achieving this includes generally avoiding the application of new rural residential zoning in ONF, ONL and SNL overlay zones;
- vi. the natural character of the coastal environment is preserved or enhanced (Objective 2.4.5). Achieving this includes generally avoiding the application of new rural residential zoning in ONCC, HNCC and NCC overlay zones;
- vii. Dunedin's significant indigenous biodiversity is protected or enhanced, and restored; and other indigenous biodiversity is maintained or enhanced, and restored; with all indigenous biodiversity having improved connections and improved resilience (Objective 2.2.3). Achieving this includes generally avoiding the application of new rural residential zoning in ASBV and UBMA;
- viii. the biodiversity values and natural character of the coast and riparian margins are maintained and enhanced (Objective 10.2.2);
- ix. subdivision and development activities maintain and enhance access to coastlines, water bodies and other parts of the natural environment, including for the purposes of gathering of food and mahika kai (Objective 10.2.4);
- x. the elements of the environment that contribute to residents' and visitors' aesthetic appreciation for and enjoyment of the city are protected or enhanced. These include:
 1. important green and other open spaces including green breaks between coastal settlements;
 2. trees that make a significant contribution to the visual landscape and history of neighbourhoods;
 3. built heritage, including nationally recognised built heritage;
 4. important visual landscapes and vistas;
 5. the amenity and aesthetic coherence of different environments; and

6. the compact and accessible form of Dunedin (Objective 2.4.1); and
- xi. the potential risk from natural hazards, including climate change, is no more than low, in the short to long term (Objective 11.2.1).

Issues raised through appeals

- 18 Two appellants, Robert Francis Wyber and The Preservation Coalition Trust (PCT), seek amendments to the way in which the Plan provides for rural residential zoning via policies 2.6.1.3 to 2.6.1.5. In general terms, Robert Wyber seeks changes to make provisions more enabling of rural residential zoning, while PCT seeks greater restrictions on this type of zoning.
- 19 Based on the content of Mr Wyber's appeal, and subsequent discussions with his representatives, I understand that Mr Wyber's key concern is to ensure adequate consideration is given to the demonstrated demand for rural residential land within Dunedin. The appellant also sought clarity over the process for considering new rural residential zoning within the Outstanding Natural Landscape, Significant Natural Landscape and Natural Coastal Character overlay zones.
- 20 In PCT's case, a key concern is to ensure protection of landscape and natural character values, by amending policy wording to indicate that new rural residential zoning is to be "avoided" rather than "generally avoided" in Outstanding Natural Feature (ONF), Outstanding Natural Landscape (ONL), Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones.
- 21 PCT's other main issue of concern is to ensure that policies are drafted to indicate that rural residential zone expansion must be minimised, and properly staged and sequenced. The appellant considers this necessary to give effect to Policy 5.3.1.d of the partially operative Regional Policy Statement.
- 22 Two further appellants, Grant Motion and William Morrison, seek the removal of non-complying activity status for subdivision in the Rural Residential 2 Zone. However, in both cases this relief is sought mainly due to site specific concerns; the appellants seek to enable additional residential development at 312 Wakari Road and 307 Wakari Road, respectively. Consent memoranda to resolve these appeals, signed by all parties, were filed the Court in February 2020. These agreements would resolve both appeals via rezoning of the two sites concerned and not via amendments to provisions for the RR2 Zone as a whole.

23 The relevant appeal points, and s274 parties and positions, are shown in the following table.

Table 1: Appeals on rural residential strategic policies and on provisions for subdivision in rural residential zones

Appellant and appeal point #	Relief sought	Section 274 parties (position)
Robert Francis Wyber 376	<p>Amend Policy 2.6.1.3 to enable rural residential zoning where appropriate.</p> <p>Amend Policy 2.6.1.4 to enable rezoning to ensure capacity is available before a shortfall, allow rural residential zones that do not rely on provision of public infrastructure, and remove references to a compact city.</p>	Robert Charles Duffy (Support), The Preservation Coalition Trust (Oppose)
The Preservation Coalition Trust 91	Recognition that zone expansion must be sequenced and staged with strict adherence to the proposed Otago Regional Policy Statement policy to minimize the division/conversion of rural land to small sites that may result in rural residential activity.	Save the Otago Peninsula (STOP) (Support), Federated Farmers of NZ INC (Neutral), University of Otago (Oppose), Otago Regional Council (Support), Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Support in part)
The Preservation Coalition Trust 90	<p>Delete the word 'generally' from Policy 2.6.1.5.c.iii and c.iv as follows:</p> <p>iii. Dunedin's outstanding and significant natural landscapes and natural features are protected (Objective 2.4.4). Achieving this includes generally avoiding the application of new rural residential zoning in ONF, ONL and SNL overlay zones;</p> <p>iv. the natural character of the coastal environment is preserved or enhanced</p>	Save the Otago Peninsula (STOP) (Support), Federated Farmers of NZ INC (Neutral), University of Otago (Oppose), Otago Regional Council (Oppose in part), Kāti Huirapa Rūnaka Ki Puketeraki and Te

	(Objective 2.4.5). Achieving this includes generally avoiding the application of new rural residential zoning in ONCC, HNCC and NCC overlay zones;	Rūnanga o Ōtākou (Support in part)
Grant Motion 106	In the event that the relief to rezone 312 Wakari Road to Large Lot Residential is not granted, amend Rule 17.3.5 so that the activity status for general subdivision in the Rural Residential 2 Zone is Discretionary.	None
William Morrison 169	Alternative relief to rezoning land to LLR1: Amend rule 17.3.5 so that the activity status for general subdivision in the Rural Residential Zone is discretionary.	Otago Regional Council (oppose)

Rural strategic

- 24 In order to achieve the strategic objectives discussed in paragraphs 14-16 above, the Plan takes a more restrictive approach to residential activity and subdivision in rural zones than is the case in the Operative District Plan. In the operative Plan, the minimum site size for both subdivision and residential activity is 15ha across the whole rural zone.
- 25 However, the review of the ODP undertaken at the start of the 2GP process found that, in areas that had high demand for rural residential living, 15ha sites were being created, marketed and sold as 'lifestyle' properties. Therefore, the 15ha minimum was determined to be ineffective at maintaining rural-zoned land in productive rural use. As a result, a review of provisions to determine a more effective management regime was undertaken, including in particular a review to determine more effective density and subdivision standards.
- 26 In the ODP, there was only one rural zone covering what is a very large (approximately 3182km²) and highly diverse rural hinterland. In the 2GP, the rural environment is divided into seven rural zones, as follows:
- (a) Coastal Rural Zone
 - (b) High Country Rural Zone
 - (c) Hill Country Rural Zone

- (d) Hill Slopes Rural Zone
- (e) Middlemarch Basin Rural Zone
- (f) Peninsula Coast Rural Zone and
- (g) Taieri Plain Rural Zone.

27 The boundaries of these zones were identified based on an analysis of the characteristics of each area, including landform, ecology, cultural values, typical rural land use, productive capacity, development patterns, waterways and coastal character.¹

28 In these zones, the key strategic objectives relevant to determining the appropriate minimum site sizes for subdivision are: protection of productive rural land (Objective 2.3.1); increased capacity for local food production (Objective 2.2.2); a compact and accessible city (Objective 2.2.4); and maintenance of the character of the rural environment (Objective 2.4.6). Based on these objectives, factors relevant to the determination of appropriate minimum site sizes for subdivision include:

- (a) restriction of subdivision that may lead to land fragmentation and create pressure for residential-oriented development
- (b) the existing pattern of settlement and land use in each rural zone, and how this contributes to the character and amenity values that exist in each rural zone
- (c) avoidance of subdivision that provides for residential activity at a rural residential or urban scale in rural zones, in order to maintain a compact city
- (d) the size of site needed to establish or support viable productive rural activities in each rural zone
- (e) the location of highly productive land and the need to protect it from activities that may diminish food production capacity, and
- (f) potential conflict with rural water resource requirements.

¹ See the following background reports that form part of the section 32 material for the 2GP: Rural Character Assessment Dunedin City (Forest Environments Ltd, February 2010) and Dunedin Landscape Management Areas Review (Boffa Miskell Ltd, April 2007), both available at <https://2gp.dunedin.govt.nz/2gp/section32a.html>.

- 29 Based on these considerations, the minimum site size for subdivision (“the MSS”) is as follows in the different rural zones (Rule 16.7.4.1):

Rural Zone	Minimum site size
Coastal	40ha
High Country	100ha
Hill Country	100ha
Hill Slopes	25ha
Middlemarch Basin	80ha
Peninsula Coast	40ha
Taieri Plain	40ha

- 30 The minimum site size required for residential activities on sites in the rural zone (“the density standard”) differs from the MSS in most zones. The density standard (Rule 16.5.2.1) requires the following minimum site sizes for the first, second and third residential activity per site:

Rural Zone	1 st residential activity	2 nd residential activity	3 rd residential activity
Coastal	15ha	80ha	120ha
High Country	100ha	200ha	300ha
Hill Country	100ha	200ha	300ha
Hill Slopes	15ha	50ha	75ha
Middlemarch Basin	40ha	160ha	240ha

Peninsula Coast	20ha	80ha	120ha
Taieri Plain	25ha	80ha	120ha

- 31 The density standard for the first residential activity per site is lower than the MSS in all of the 2GP's rural zones, except for the High Country and Hill Country rural zones. This reflects the slightly different methodologies that were used for the density standard and for the MSS.² In setting the density standard for the first residential activity per site the median size of properties used for rural activities in each rural zone was given greater weight, whereas in the case of the MSS the average size of those properties was given more weight. This is because the average rural property size was taken as reflecting the typical land configuration required for a new rural activity and was, therefore, considered to be a good indicator for the appropriate MSS for new sites. The greater weight given to the median property size for the density standard recognises that the size of large rural properties can drag the average up³ and, as a result, there will be a number of existing rural properties around the middle of the range but below the average size.
- 32 In those zones where the median property size is considerably lower than the average property size, it was considered appropriate to have a lower minimum area in the density standard than in the MSS, in order to recognise the existing patterns of subdivision in the different rural zones, and thus reduce the number of existing vacant rural sites that lose residential development rights as a result of the shift from the Operative District Plan density standard (which is a minimum of 15ha in all areas of the rural zone) to the 2GP density standard.
- 33 Both residential activity that contravenes the density standard and subdivision that contravenes the MSS are non-complying activities in the rural zones. The most relevant objectives and policies to be considered

² These methodologies are set out in section 32 report Minimum Site Size in Dunedin's Rural Zones, April 2014, pp16-20. This report is available on the DCC website:
https://2gp.dunedin.govt.nz/2gp/documents/Section32_Background_Documents/Rural/Rural%20Minimum%20Site%20Size%20technical%20report%20April%202014.pdf

³ Note that, as stated in the 2014 report (p5): "Sites and properties less than 2 hectares (ha) have been excluded as the high proportion of these (36.2% of all rural sites and 38.9% of all rural properties) would skew the results. As 2ha is the current minimum site size for a 'rural residential' site in the Rural Residential Zone, it can be argued that any site or property less than 2 ha in size is being put to a non-rural use."

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in assessing these activities (in addition to the strategic direction objectives referred to in paragraph 28 above) are as follows. The aspects of these provisions that are the subject of the agreed amendments discussed in this affidavit are shaded in grey.

Objective 16.2.1

Rural zones are reserved for productive rural activities and the protection and enhancement of the natural environment, along with certain activities that support the well-being of communities where these activities are most appropriately located in a rural rather than an urban environment. Residential activity in rural zones is limited to that which directly supports farming or which is associated with papakāika.

Policy 16.2.1.5

Require residential activity, with the exception of papakāika, in the rural zones to be at a level (density) that supports farming activity and achieves objectives 2.3.1, 2.4.6, 16.2.2, 16.2.3 and 16.2.4 and their policies.

Policy 16.2.1.7

Avoid residential activity in the rural zones on a site that does not comply with the density standards for the zone, unless it is the result of a surplus dwelling subdivision.

Objective 16.2.3

The rural character values and amenity of the rural zones are maintained or enhanced, elements of which include:

- a. a predominance of natural features over human made features;
- b. a high ratio of open space, low levels of artificial light, and a low density of buildings and structures;
- c. buildings that are rural in nature, scale and design, such as barns and sheds;
- d. a low density of residential activity, which is associated with rural activities;
- e. a high proportion of land containing farmed animals, pasture, crops, and forestry;

- f. extensive areas of indigenous vegetation and habitats for indigenous fauna; and
- g. other elements as described in the character descriptions of each rural zone located in Appendix A7.

Policy 16.2.3.2

Require residential activity to be at a density that maintains the rural character values and visual amenity of the rural zones.

Policy 16.2.3.8

Only allow subdivision activities where the subdivision is designed to ensure any associated future land use and development will maintain or enhance the rural character and visual amenity of the rural zones.

Objective 16.2.4

The productivity of rural activities in the rural zones is maintained or enhanced.

Policy 16.2.4.4

Require residential activity in the rural zones to be at a density that will not, over time and/or cumulatively, reduce rural productivity by displacing rural activities.

Policy 16.2.4.3

Only allow subdivision activities where the subdivision is designed to ensure any future land use and development will:

- a. maintain or enhance the productivity of rural activities;
- b. maintain highly productive land for farming activity, or ensure the effects of any change in land use are:
- c. insignificant on any high class soils mapped area; and
- d. no more than minor on other areas of highly productive land;
- e. maintain land in a rural rather than rural residential land use; and
- f. not increase the potential for reverse sensitivity.

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Issues raised in appeals

- 34 Four appellants have challenged either the policy framework for residential development and subdivision in the rural zones, or the specific rules used to implement this framework (or both). Based on the content of appeals, and subsequent discussions with the parties, my understanding of the key concerns of appellants is as follows.
- 35 Bruce Wayne Taylor and the estate of Lawrence Taylor (Bruce Taylor) is concerned that existing sites in the Peninsula Coast Zone that exceed 15ha (i.e. the density standard in the ODP) but that do not meet the 20ha density standard for this zone in the 2GP should retain residential development rights. Mr Taylor's family own a number of sites of this kind and are therefore particularly affected by this change.
- 36 Federated Farmers of New Zealand Inc (Federated Famers) consider that adequate weight should be given to the potential benefits to productivity of residential activity in rural zones – for example, by ensuring that provisions for farm worker accommodation are flexible enough to allow operational needs to be met.
- 37 Blueskin Projects Limited and Others (Blueskin) wish to ensure that the Plan provides a pathway for residential use of existing undersized sites, given that it may not be possible to use these sites economically solely for commercial farming. The appellants seek fair provisions for owners of sites that do not meet the 2GP density rule but were created legitimately under previous planning regimes.
- 38 Ben Ponne requests that provisions be amended to enable a residential dwelling to be established on existing sites in the Coastal Rural Zone that do not meet the density standard. However, this relief was sought primarily due to site specific concerns; the appellant sought to enable additional residential development at 58 and 73 Reservoir Road. A consent memorandum setting out an agreed approach to resolving this appeal in a site specific way has now been signed by all parties, and affidavits are being completed.

Table 2: Appeals on provisions for residential activity and subdivision in rural zones

Appellant and appeal point #	Relief sought	Section 274 parties (position)
<p>Blueskin Projects & Others 153</p>	<p>Amend Objective 16.2.1 as follows: Rural zones are reserved for <u>that enable</u> productive rural activities and the protection and enhancement of the natural environment, along with certain activities that support the well-being of communities where these activities are most appropriately located in a rural <u>environment</u> rather than an urban environment. Residential activity in rural zones is limited to that which directly supports farming or which is associated with papakāika.</p>	<p>Construction Industry and Developers Association (Support), Gladstone Family Trust (Support), Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Oppose), Otago Regional Council (Oppose)</p>
<p>Blueskin Projects & Others 154</p>	<p>Amend Policy 16.2.1.2 as follows Provide for rural activities, veterinary services, rural industry, rural contractor and transport depots, community activities, emergency services, cemeteries and crematoriums in the rural zones where the effects will be adequately managed <u>in line with objectives 16.2.2 and 16.2.3, 16.2.4 and their policies, and the objectives and policies of any relevant overlay zones.</u></p>	<p>Construction Industry and Developers Association (Support), Gladstone Family Trust (Support), Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Oppose), Otago Regional Council (Oppose)</p>
<p>Blueskin Projects & Others 155</p>	<p>Amend Policy 16.2.1.5 as follows: <u>Enable</u> Require residential activity, with the exception of papakāika, in the rural zones to be at a level (density) that supports farming activity and achieves objectives</p>	<p>Construction Industry and Developers Association (Support), Gladstone Family Trust (Support), Kāti Huirapa</p>

Appellant and appeal point #	Relief sought	Section 274 parties (position)
	2.3.1, 2.4.6, 16.2.2, 16.2.3 and 16.2.4 and their policies.	Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Oppose), Otago Regional Council (Oppose)
Federated Farmers of New Zealand Inc 189	Amend Policy 16.2.1.7 as follows: Avoid residential activity in the rural zones on a site that does not comply with the density standards for the zone, unless: <u>a. it is the result of a surplus dwelling subdivision; or</u> <u>b. there will be significant positive effects for rural productivity in line with Objective 16.2.4.</u>	Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Oppose); Otago Regional Council (Oppose)
Blueskin Projects & Others 156	Delete Policy 16.2.1.7 and replace with: <u>Provide for rural residential living in the rural zones on existing undersized titles in the following circumstances:</u> <u>(a) The title is located within or adjoins an enclave of existing undersized titles, some of which are developed;</u> <u>(b) Natural hazards can be avoided, remedied or mitigated;</u> <u>(c) Adequate set backs are provided to maintain the amenity values of adjoining properties and to minimise reverse sensitivity;</u> <u>(d) Infrastructure, including the roading network, is not compromised.</u> <u>Provide for further subdivision for rural residential living purposes in the rural</u>	Construction Industry and Developers Association (Support), Gladstone Family Trust (Support), Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Oppose), Otago Regional Council (Oppose)

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Appellant and appeal point #	Relief sought	Section 274 parties (position)
	<u>zones within areas that are already fragmented.</u>	
Blueskin Projects & Others 157	Amend Policy 16.2.2.5 as follows: Only allow <u>Enable</u> rural tourism - large scale, rural research - large scale (outside the Invermay Farm mapped area), rural contractor and transport depots - large scale, community and leisure - large scale, sport and recreation, veterinary services, visitor accommodation, cemeteries, crematoriums, intensive farming, domestic animal boarding and breeding (including dogs), rural industry, mining, service stations, or landfills where <u>significant</u> adverse effects on the amenity of residential activities on surrounding properties will be avoided or, if avoidance is not practicable, adequately mitigated.	Construction Industry and Developers Association (Support), Gladstone Family Trust (Support), Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Oppose), Otago Regional Council (Oppose)
Blueskin Projects & Others 159	Amend Policy 16.2.3.6 as follows: Only allow <u>Enable</u> community and leisure - large scale, sport and recreation, early childhood education, service stations, and visitor accommodation where the adverse effects of development on rural character and visual amenity are avoided or, if avoidance is not practicable, no more than minor.	Construction Industry and Developers Association (Support), Gladstone Family Trust (Support), Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Oppose), Otago Regional Council (Oppose)
Blueskin Projects & Others	Amend Policy 16.2.3.8 as follows: Only allow <u>Enable</u> subdivision activities where the subdivision is designed to ensure any associated future land use and	Construction Industry and Developers Association (Support),




Appellant and appeal point #	Relief sought	Section 274 parties (position)
160	development will maintain or enhance the rural character and visual amenity of the rural zones <u>or meets the criteria of Policy 16.2.1.7.</u>	Gladstone Family Trust (Support), Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Oppose), Otago Regional Council (Oppose)
Blueskin Projects & Others 163	Amend Policy 16.2.4.2 by adding a new clause as a.iii: <u>iii. unless the location is an existing area of fragmented rural land</u>	Construction Industry and Developers Association (Support), Gladstone Family Trust (Support), Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Oppose), Otago Regional Council (Oppose)
Blueskin Projects & Others 164	Amend Policy 16.2.4.3 by adding a new b.iii as follows: <u>iii. Consistent with Policy 16.2.1.7</u> OR Add a new clause <u>e. where the subdivision is designed to enable the development of those activities anticipated in Policies 16.2.2.5 and 16.2.3.6.</u>	Construction Industry and Developers Association (Support), Gladstone Family Trust (Support), Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Oppose), Otago Regional Council (Oppose)



Appellant and appeal point #	Relief sought	Section 274 parties (position)
Blueskin Projects & Others 166	Amend Policy 16.2.4.4 as follows: Require residential activity in the rural zones to be at a density that will not, over time and/or cumulatively, reduce rural productivity by displacing rural activities <u>while recognising the need to enable appropriate development, including rural residential development, of existing undersized rural sites.</u>	Construction Industry and Developers Association (Support), Gladstone Family Trust (Support), Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Oppose), Otago Regional Council (Oppose)
Blueskin Projects & Others 168	Amend density performance standard by adding the following after 16.5.2.3 a: <u>b. Standard residential activity on sites 15 hectares or above that were consented before 26 September 2015 shall be permitted activities.</u> <u>c. Standard residential activity provided for by Policy 16.2.1.7 shall be a restricted discretionary activity.</u> <u>Council's discretion is restricted to:</u> <u>i. Setbacks and screening to minimise adverse effects on the amenity values of adjoining properties and to minimise reverse sensitivity effects;</u> <u>ii. The provision of appropriate infrastructure to minimise any adverse effects water quality;</u> <u>iii. The bulk and design of the dwelling to minimise adverse visual effects;</u>	Construction Industry and Developers Association (Support), Gladstone Family Trust (Support), Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Oppose), Otago Regional Council (Oppose)



Appellant and appeal point #	Relief sought	Section 274 parties (position)
	<p><u>iv. Measures to avoid or mitigate natural hazards.</u></p> <p><u>e. Standard residential activity on existing undersized rural sites as at 26 September 2015 not provided for by Policy 16.2.1.7 and that are smaller than 15 hectares shall be a discretionary</u></p>	
<p>Bruce Wayne Taylor and the estate of Lawrence Taylor</p> <p>10</p>	<p>Amend Rule 16.5.2.1.f (Peninsula Coast) so that the minimum site size is 15ha and allow all existing titles to be able to be used for residential activity if they have been in the past.</p> <p>15 hectare titles should have no restrictions on them in terms of residential activity.</p>	<p>None</p>
<p>Blueskin Projects & Others</p> <p>170</p>	<p>Amend the minimum site size for the first residential activity per site as follows:</p> <p>16.5.2.1.b 400ha <u>15ha</u></p> <p>16.5.2.1.f 20ha <u>15ha</u></p> <p>16.5.2.1.g 25ha <u>15ha</u></p>	<p>Construction Industry and Developers Association (Support), Gladstone Family Trust (Support), Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Oppose), Otago Regional Council (Oppose)</p>
<p>Blueskin Projects & Others</p> <p>171</p>	<p>Amend Rule 16.7.4.1 (subdivision performance standard) so that the minimum site size for all zones is 15ha.</p>	<p>Construction Industry and Developers Association (Support), Gladstone Family Trust (Support), Kāti Huirapa</p>

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Appellant and appeal point #	Relief sought	Section 274 parties (position)
		Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Oppose), Otago Regional Council (Oppose)
Ben Ponne 151	<p>a. Rezone the land at 58 and 73 Reservoir Road Warrington from Coastal Rural to Rural Residential 2</p> <p>b. As an alternative to (a) above, add a new rule in the Coastal Rural Zone enabling a residential dwelling be established on an existing undersized site.</p>	Otago Regional Council (Oppose)

Decision background

Rural residential strategic

- 39 This section of the affidavit describes the 2GP Hearing Panel’s decisions in response to submissions from Robert Wyber and The Preservation Coalition Trust relating to rural residential strategic policies. It does not include decisions in response to submissions from Mr Morrison or Mr Motion relating to the activity status of subdivision in rural residential zones, because, as stated above, the appeals from these parties are proposed to be resolved by changes to the zoning sites owned by the appellants, and not by changes to subdivision rules. Consent memoranda to resolve these appeals via rezoning, and accompanying affidavits, have already been filed with the Court.
- 40 In the notified version of the 2GP, two strategic policies (sitting under two separate strategic objectives) relate to rural residential zoning. These policies are quoted below. Policy 2.2.4.3 is relevant to both residential and rural residential zoning; only the parts of this relating to rural residential zoning are quoted here.

Policy 2.2.4.3

Ensure expansion of urban and rural residential areas occurs in the most appropriate locations and only when required by:

...

b. avoiding the creation of any new rural residential subdivisions and instead enable the use of existing undersized rural sites for rural residential activity through rezoning as Rural Residential 2 sites, and consider conversion of these areas into Rural Residential 1 zoning when there is a demonstrated shortage of rural residential capacity.

Policy 2.6.1.4

Use rural residential zoning only where all of the following factors are present:

- a. for new zoning, it is in line with Policy 2.2.4.3;
- b. land is already subdivided, and partly or fully developed, at a rural residential density;
- c. development at a rural residential density will have no more than minor effects on rural productivity, landscape values, and rural character;
- d. the location enables reasonable levels of accessibility to critical services and facilities (centres);
- e. development will not lead to pressure for infrastructure upgrades, including road sealing; and
- f. the zoned area (number of lots) is of an adequate size to support community-building, and economies of scale necessary to encourage smaller scale productive activities, and will not create isolated housing

41 In response to Mr Wyber's submission, the Rural Residential Zones Hearing Panel agreed that changes to strategic direction policies for rural residential zoning were necessary to improve their "general workability" and to clarify the range of matters that are assessed when determining whether areas are appropriate for inclusion in rural residential zones.

42 Therefore, in response to Mr Wyber (and other relevant submissions), the Panel decided to make the following changes to the structure and content of the policies:

- (a) Delete material relating to rural residential zoning from Policy 2.2.4.3; and transfer it to two new policies under Objective 2.6.1, which sit alongside notified Policy 2.6.1.4. Following this change, all three strategic policies (renumbered as policies 2.6.1.3, 2.6.1.4



and 2.6.1.5) that are relevant to rural residential zoning sit beneath one objective.

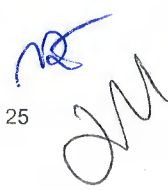
- (b) Draft the new policies to set out, more clearly:
 - (i) The intended difference between Rural Residential 1 and Rural Residential 2 zoning, by adding direction on the circumstances in which these different zone types should be considered; and
 - (ii) The criteria against which proposed new areas of rural residential zoning should be assessed.

43 The Preservation Coalition Trust (which, at the time the submission was made, was known as the Harboursides and Peninsula Preservation Coalition) requested that a new clause be added to strategic policies for rural residential zoning, to require avoidance of “the creation of any new rural residential subdivisions where there is a capacity shortage of fewer than five sites available in Dunedin City.” The submission also requested addition of the following wording to the policies: “Use of existing undersized rural sites will not be enabled but they may become part of a demand-driven new rural residential zone area.”

44 The submission opposed the expansion of rural residential zoning for a range of reasons, including potential adverse effects on rural productivity, land fragmentation, the natural environment, rural character and amenity, pressure on infrastructure, and reverse sensitivity issues.

45 The Hearing Panel responded to PCT’s submission (and other relevant submissions) in the following ways:

- (a) Revised Policy 2.6.1.3 set clearer limits on the circumstances in which new Rural Residential 1 or Rural Residential 2 zoning should be considered, for Rural-zoned areas already subdivided and fully or partially developed at a rural residential scale.
- (b) Revised Policy 2.6.1.4 clarified the circumstances in which new rural residential zoning should be considered, in terms of demand for rural residential land, and taking into account the Plan’s strategic objectives for urban form. This policy also sets an order of priority for new rural residential zoning, starting with rezoning of existing rural residential areas for denser development (i.e. rezoning from RR2 to RR1), and progressing to rezoning of greenfield land only where other options are “inappropriate and/or unfeasible”.



- (c) Revised Policy 2.6.1.5 clearly set out the relevant strategic objectives to be considered when deciding on the appropriateness of rural residential zoning for a given area of land. The objectives referred to in this policy cover issues of concern raised in PCT's submission, including, among others, the protection of landscape (Objective 2.4.4), biodiversity (Objective 2.2.3) and productive rural land (Objective 2.3.1).

Rural strategic

- 46 This section of the affidavit describes the Hearing Panel's decisions in response to submissions from Blueskin, Federated Farmers and Mr Taylor. It does not address decisions in response to submissions from Mr Ponne relating to provision for residential activity on undersized sites in rural zones, because, as stated above, Mr Ponne's appeal is proposed to be resolved not via a change to provisions for undersized rural sites, but rather via the rezoning of his site at Warrington. A consent memorandum setting out an agreed approach to resolving this appeal in a site specific way has now been signed by all parties, and affidavits are being completed.
- 47 All decisions on submissions related to the Rural strategic topic were made by the Rural Zones Hearing Panel.
- 48 The submission from Blueskin sought a range of changes to the objectives and policies for the rural zones, in Section 16 of the Plan.
- 49 Firstly, it was requested that Objective 16.2.1 be amended as follows:
- ~~Rural zones are reserved for that enable~~ productive rural activities and the protection and enhancement of the natural environment, along with certain activities that support the wellbeing of ~~rural communities~~ the community where these activities are most appropriately located in a rural rather than an urban environment and adverse effects can be appropriately managed. Residential activity in rural zones is limited to that which directly supports farming or which is associated with papakāika.
- 50 Blueskin also requested a range of related changes to policies concerning subdivision and residential development in rural zones, as shown below.

Policy 16.2.1.5

Limit ~~Enable~~ residential activity, with the exception of and papakāika, in the rural zones to a level (density) that supports farming activity and achieves ~~Objectives 2.2.2, 2.3.1, 2.4.6, 16.2.2, 16.2.3 and 16.2.4~~ and their policies.



Policy 16.2.1.7

~~Avoid residential activity in the rural zones on a site that does not comply with the density standards for the zone, unless it is the result of a surplus dwelling subdivision.~~

- a. Provide for rural residential living in the rural zones on existing undersized titles in the following circumstances:
 - i. The title is located within or adjoins an enclave of existing undersized titles, some of which are developed;
 - ii. Natural hazards can be avoided, remedied or mitigated;
 - iii. Adequate set backs are provided to maintain the amenity values of adjoining properties and to minimise reverse sensitivity;
 - iv. Infrastructure, including the roading network, is not compromised.
- b. Provide for further subdivision for rural residential living purposes in the rural zones within areas that are already fragmented.

Policy 16.2.4.2


Avoid activities other than farming in a high class soils mapped area, unless:

- a. the scale, size and nature of the activity on the high class soils mapped area means that any loss of current or potential future rural productivity would be insignificant; or
- b. for mining, the activity must locate on the part of the site with high class soils due to operational requirements and there are no practicable alternative locations; or
- c. the location is an existing area of fragmented rural land.

Policy 16.2.4.3

Only allow subdivision where the subdivision is designed to ensure any future land use and development will:

- a. maintain or enhance the productivity of rural activities;
- b. maintain high class soils for farming activity, or ensure any loss is no more than minor;
- c. maintain land in a rural rather than rural residential land use except in the circumstances provided for in Policy 16.2.1.7; and
- d. not increase the potential for reverse sensitivity from residential activities in the rural zones; OR
- e. where the subdivision is designed to enable the development of those activities anticipated in Policies 16.2.2.5, 16.2.2.6, 16.2.3.5 and 16.2.3.6.



Policy 16.2.4.4

Avoid residential activity in the rural zones at a density that may, over time and cumulatively, reduce rural productivity by displacing rural activities while recognising the need to enable appropriate development, including rural residential development, of existing undersized rural sites.

- 51 In addition, Federated Farmers lodged a further submission in support of the following requested change to Policy 16.2.1.7 (by the NZ Institute of Surveyors - Coastal Otago Branch):

Policy 16.2.1.7

Avoid residential activity in the rural zones on a site that does not comply with the density standards for the zone unless it is the result of a surplus dwelling subdivision or directly supports farming, or the wellbeing of the local community.

- 52 Both the Blueskin submission on the above policies and the NZ Institute of Surveyors' submission on Policy 16.2.1.7 were rejected by the Hearing Panel, on the basis of evidence presented at the hearing, including evidence provided by the Reporting Officer both in the s42A report and in response to the Panel's questions, and evidence provided by submitters.

- 53 The Blueskin submission also requested changes to rural zone policies not directly related to subdivision or residential development. It was requested that Policy 16.2.1.2 be amended as follows:

Policy 16.2.1.2

Provide for other rural activities, veterinary services, rural industry, community activities, cemeteries and crematoriums in the rural zone where the effects can be adequately managed ~~in line with Objectives 16.2.2 and 16.2.3, 16.2.4 and their policies, and the objectives and policies of any relevant overlay zones.~~

- 54 The Hearing Panel rejected this submission on the basis that "the policy provides clarity and cross-linkage at a policy level through specifying that other rural objectives and their policies are relevant".

- 55 The submitter also requested the following two policies for non-residential activities in rural zones each be amended in a similar way:

Policy 16.2.2.5

~~Only allow~~ Enable rural tourism large scale, rural research large scale, community and leisure largescale, sport and recreation, veterinary services, visitor accommodation, cemeteries, crematoriums, factory farming, domestic animal boarding and breeding (including dogs), rural industry, mining or landfills where significant adverse

effects on the amenity of residential activities on surrounding properties will be avoided or, if avoidance is not possible, adequately mitigated are avoided, remedied or mitigated.

Policy 16.2.3.6

~~Only allow~~ Enable community and leisure activities large scale, sport and recreation, early childhood education, and visitor accommodation activities where the any significant adverse effects of development on rural character and visual amenity are insignificant are avoided, remedied or mitigated.

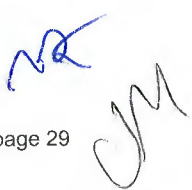
- 56 The Hearing Panel rejected these submissions on the basis that the requested wording would be too enabling to appropriately manage effects on amenity, and would also be inconsistent with the 2GP policy drafting protocol.
- 57 Finally, the submissions from Blueskin and Mr Taylor requested changes to the Plan's rules on minimum site size for subdivision (Rule 16.7.4), and/or minimum site area for establishment of a residential activity (Rule 16.5.2).
- 58 Blueskin requested that Rule 16.7.4 be amended to reduce the minimum site size for subdivision to 15ha in all rural zones. They also requested that Rule 16.5.2 be amended so that the minimum site area required for a residential activity be reduced to 15ha in three of the Plan's rural zones – Hill Country, Peninsula Coast and Taieri Plains. Mr Taylor also requested that Rule 16.5.2 be amended to reduce the minimum site area required for a residential activity to 15ha, but in the Peninsula Coast Rural Zone only.
- 59 The Hearing Panel rejected the requests from both submitters to change rules 16.7.4 and 16.5.2, on the basis of evidence presented at the hearing, including evidence provided by the Reporting Officer both in the s42A report and in response to the Panel's questions.

Assessment of other appeals

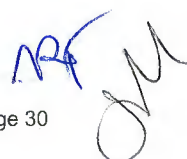
- 60 As part of my assessment of the appropriateness of this change, I have considered whether there are other appeals on the provisions affected by these amendments, to understand whether there is overlap between different appeals on the same provisions in the plan.

Rural residential strategic

- 61 No appeals other than those from Wyber and PCT directly affect policies 2.6.1.3, 2.6.1.4 or 2.6.1.5.



- 62 However, Policy 2.6.1.5 contains references to 2GP objectives that are under appeal by other parties. The policy requires that proposed new areas of rural residential zoning be assessed against a range of relevant objectives. The policy not only refers to the numbers of relevant objectives, but also repeats their wording.
- 63 As a result, appeals on the wording of 2GP objectives have the potential to result in the need for consequential changes to Policy 2.6.1.5. These appeals, and the objectives they affect, are as follows:
- (a) An appeal from BP Oil New Zealand Limited and Others (ENV-2018-CHC-291) on Objective 2.3.1, concerning economically and socially important land and facilities, which is referenced in Policy 2.6.1.5.c.ii.
 - (b) Appeals from Saddle Views Estate Limited (ENV-2018-CHC-287) and Tussock Top Farms Limited (ENV-2018-CHC-282) on Objective 2.4.4, concerning landscape, which is referenced in Policy 2.6.1.5.c.iii.
 - (c) An appeal from Royal Forest and Bird Protection Society of NZ Inc (ENV-2018-CHC-287) on Objective 10.2.2, concerning the biodiversity values and natural character of the coast and riparian margins, which is referenced in Policy 2.6.1.5.c.vi.
- 64 However, I note that, in the version of rural residential strategic policies that have been agreed in the consent memorandum, the repetition of the wording of all objectives that the policies reference, including objectives 2.3.1, 2.4.4 and 10.2.2, has been removed. Therefore, any amendments to the wording of these objectives in response to the appeals listed above would no longer result in consequential amendments to the policies. As a result, I do not consider that the appeals from Wyber and PCT overlap with those from BP Oil NZ Ltd and Others on Objective 2.3.1, or from Royal Forest and Bird Protection Society of NZ Inc on Objective 10.2.2.
- 65 The appeals from Saddle Views Estate Limited and Tussock Top Farms Limited are different from the others, because they request deletion of Objective 2.4.4, not just amendments to its wording. If the objective were wholly deleted in response to appeals, rather than amended, then clearly a consequential amendment to Policy 2.6.1.5 would still be needed. However, following mediation of the appeals from Saddle Views Estate Limited and Tussock Top Farms Limited, all parties have signed a consent memorandum (dated 23 March 2021) that would resolve the relevant parts of the appeals with no change to Objective 2.4.4.



66 Overall, therefore, I do not consider there is any overlap between appeals that would prevent a consent order on the Rural Residential Strategic consent memorandum from being issued.

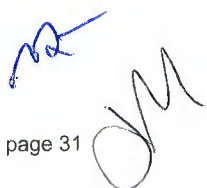
Rural strategic

67 The agreed amendments in response to appeals included in the Rural Strategic consent memorandum affect the following 12 provisions:

- (a) Policy 2.2.3.3
- (b) Policy 2.3.1.2
- (c) 16.1 Introduction (to Rural Zones section of the Plan)
- (d) Objective 16.2.1
- (e) Policy 16.2.1.5
- (f) Policy 16.2.1.7
- (g) Rule 16.5.2 Density
- (h) Rule 16.5.14.2 Family Flats – Design
- (i) Rule 16.12.5.1 (assessment guidance for contravention of Rule 16.5.2 Density)
- (j) Rule 16.12.5.6 (assessment guidance for contravention of Rule 16.7.4 Minimum Site Size)

68 The appeals in this topic requested changes to a further eight provisions that are not amended in the consent memorandum. These are:

- (a) Policy 16.2.1.2
- (b) Policy 16.2.2.5
- (c) Policy 16.2.3.6
- (d) Policy 16.2.3.8
- (e) Policy 16.2.4.2
- (f) Policy 16.2.4.3
- (g) Policy 16.2.4.4



(h) Rule 16.7.4 Minimum Site Size

69 There are three appeals, other than those from Blueskin, Federated Farmers and Mr Taylor, that affect one or more of the above provisions.

Saddle Views Estate Limited (ENV-2018-CHC-283), appeal points 331 and 332, and Tussock Top Farms Ltd (ENV-2018-CHC-282), appeal points 309 and 311

70 These two appellants seek amendments to the policy framework in rural zones to provide for mining and quarrying in a more enabling way, including amendments to the wording of Objective 16.2.1, Policy 16.2.1.2 and Policy 16.2.2.5.

71 Following mediation of the appeals from Saddle Views Estate Limited and Tussock Top Farms Limited, all parties have signed a consent memorandum (dated 23 March 2021) that would resolve the relevant parts of the appeals as follows:

(a) no amendment to Policy 16.2.1.2

(b) no amendment to Policy 16.2.2.5, and

(c) an amendment to Objective 16.2.1 that is the same as that agreed in the consent memorandum that resolves the Rural Strategic appeals.

72 Therefore, the two consent memoranda change the three provisions in question in exactly the same way.

Egg Producers Federation of NZ (ENV-2018-CHC-267), appeal point 183

73 This appellant seeks an amendment to Policy 16.2.2.5 as part of a package of changes intended to provide for intensive farming in a more enabling way. This appeal point is not yet resolved.

74 The specific change requested by EPFNZ is the removal of a reference to intensive farming from this policy. Given that the Rural Strategic consent memorandum does not contain any change to Policy 16.2.2.5, I do not consider that this request overlaps with the appeals of Blueskin, Federated Farmers or Mr Taylor.

75 Overall, therefore, I do not consider there is any overlap between appeals that would prevent a consent order on the Rural Strategic consent memorandum from being issued.



Assessment (s75 and s32)

Consistency with higher order documents (s.75)

76 Objective 5.3 of the partially operative Otago Regional Policy Statement 2019 is "Sufficient land is managed and protected for economic production". Policy 5.3.1, beneath this objective, reads as follows:

Policy 5.3.1 Rural activities

Manage activities in rural areas, to support the region's economy and communities, by:

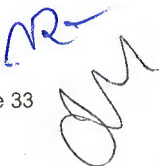
- a. Enabling primary production and other rural activities that support that production;
- b. Providing for mineral exploration, extraction and processing;
- c. Minimising the loss of significant soils;
- d. Restricting the establishment of incompatible activities in rural areas that are likely to lead to reverse sensitivity effects;
- e. Minimising the subdivision of productive rural land into smaller lots that may result in a loss of its productive capacity or productive efficiency;
- f. Providing for other activities that have a functional need to locate in rural areas.

77 Both Objective 5.3 and Policy 5.3.1 are operative. Therefore, I have assessed whether the proposed changes will give effect to these provisions. Clauses 'd' and 'e' of Policy 5.3.1 are particularly relevant to residential activity and subdivision in the rural environment.

78 These policies are given effect to in the 2GP via Objective 2.3.1 and associated provisions – including the provisions that are the subject of the attached consent memoranda, i.e. strategic policies for rural residential zoning, and provisions to manage subdivision and residential activity in rural zones.

79 In the Section 32AA assessment, below, I have considered the extent to which each change to these provisions may affect the potential for reverse sensitivity effects (Policy 5.3.1.d) and pressure for land fragmentation (Policy 5.3.1.e) as part of my assessment of the changes against 2GP objectives. In my view, based on this assessment, the changes set out in the consent memoranda give effect to these provisions.

80 I note that national policy statements are currently being prepared in relation to both highly productive land and indigenous biodiversity, but these are not yet gazetted.



Section 32AA Assessment

Rural residential strategic

- 81 Rural residential zoning is provided for in the Plan in order to contribute to the achievement of Objective 2.6.1, which reads as follows:

Objective 2.6.1: Housing choices

There is a range of housing choices in Dunedin that provides for the community's needs and supports social well-being.

- 82 As described above, rural residential zoning is also assessed against other 2GP objectives to determine whether the location and amount is appropriate. This assessment is outlined in policies 2.6.1.4 and 2.6.1.5. Under Policy 2.6.1.4, the amount of land proposed to be rezoned should balance provision of some land for rural residential use (as required for the achievement of 2.6.1) with the following strategic objectives of the Plan:

- (a) Objective 2.2.4, in relation to retaining a compact and accessible city
- (b) Objective 2.7.1, in relation to efficient public infrastructure, and
- (c) Objective 2.7.2, in relation to efficient transportation.

- 83 Under Policy 2.6.1.5, proposed new areas of rural residential zoning are to be assessed in relation to whether they are the most appropriate to achieve the following objectives:

- (a) Objective 2.4.6, relating to the character of the rural environment
- (b) Objective 2.3.1, relating to productive rural land
- (c) Objective 2.4.4, relating to natural landscapes and features
- (d) Objective 2.4.5, relating to the natural character of the rural environment
- (e) Objective 2.2.3 relating to indigenous biodiversity
- (f) Objective 10.2.2, relating to the biodiversity values and natural character of the coast and riparian margins
- (g) Objective 10.2.4, relating to access to coastlines and water bodies
- (h) Objective 14.2.1, relating to Manawhenua values



(i) Objective 2.4.1, relating to the elements of the environment that contribute to aesthetic appreciation for and enjoyment of the city, and

(j) Objective 11.2.1, relating to risk from natural hazards.

84 Overall, the purpose of policies 2.6.1.3-2.6.1.5 is to provide for the identification of new land suitable for rural residential zoning in a way that balances the achievement of Objective 2.6.1 with the achievement of the other objectives set out above. In my view, the changes to policies 2.6.1.3-2.6.1.5 as set out in the consent memorandum are an appropriate way to achieve these objectives.

85 Changes to the policies include reformatting, as well as several more substantive changes.

86 In terms of reformatting, the policies have been amended to delete Policy 2.6.1.3 and include some of its content in Policy 2.6.1.4, but keep Policy 2.6.1.5 separate. As a result of this change, one policy (Policy 2.6.1.4) guides when it may be appropriate to add more rural residential zoning (based on existing market availability) and what type of rural residential zoning (rural residential 1 vs rural residential 2) is appropriate. The other policy (Policy 2.6.1.5) sets out the criteria against which this land should be assessed, when considering whether rural residential zoning is appropriate. In my view, this reformatting makes the policies clearer, simpler and easier to interpret.

87 In addition, the repetition of wording of other objectives has been removed from both Policy 2.6.1.4 and Policy 2.6.1.5. This repetition is unnecessary as the objective numbers are given, and the electronic plan provides hyperlinks from these numbers to the relevant objective.

88 There are also five substantive changes to the policies, and to related definitions. Firstly, in response to the Wyber appeal, Policy 2.6.1.4 is amended so that there is no longer a requirement for there to be “a demonstrated shortage of rural residential land” before more land is rezoned rural residential. This requirement is replaced by guidance indicating that the amount of land to be rezoned should be assessed taking into account “the predicted market availability of rural residential zoned land for the next 5 years” alongside relevant strategic directions relating to efficient infrastructure and the maintenance of a compact city (which are likely to limit the amount of land rezoned in this way).

89 In my view, the approach set out in the revised policy is clearer. It removes the reference to “demonstrated shortage”, which I consider is

appropriate for two reasons. Firstly, it is unclear how a “demonstrated shortage of rural residential land” is intended to be measured. Secondly, it is better planning practice to anticipate potential shortages of rural residential land rather than responding afterwards. Under the revised wording, the supply of rural residential land is still a relevant consideration, but there is no need to wait for a shortage of land before carrying out rezonings. The reference to “predicted market availability of rural residential zoned land for the next five years” also gives clearer guidance on the type of evidence that will need to be considered.

90 Therefore, I consider that this change is likely to lead to better outcomes for housing choice, in line with Objective 2.6.1. In terms of the other strategic objectives, although the change is in the direction of being slightly more enabling of rural residential zoning, the policies continue to emphasise the importance of carefully considering other relevant matters, such as effects on highly productive land, indigenous biodiversity, landscape values, and the natural character of the coast, when making decisions about rezoning.

91 I note that, in order to implement amended Policy 2.6.1.4 in relation to “the predicted market availability of rural residential zoned land for the next 5 years” the Council has committed to improved monitoring of rural residential demand and supply.

92 Secondly, in response to the Wyber appeal, there are changes to the process for identifying the type of land (in terms of the existing pattern of subdivision) that may be suitable for rezoning to rural residential 1 or 2.

93 In the decisions version of the policies, there is a requirement to first consider “rezoning of Rural Residential 2 to Rural Residential 1 land to increase capacity” and next consider “rezoning of any remaining clusters of sites below the minimum site sizes in the rural zones” before considering the rezoning of other rural land to rural residential, if the first two options are inappropriate or unfeasible.

94 In the amended policies, this prioritisation has been changed (see Policy 2.6.1.4.c, consent memo version), so that the first priority is to be given to either of the following:

- (a) applying Rural Residential 1 zoning to existing clusters of sites with an average size of 2-4ha, or
- (b) applying Rural Residential 2 zoning – or RR1 zoning, if this can achieve a similar outcome in terms of the criteria in Policy 2.6.1.5 – to existing clusters of sites with an average size of 4-10ha.

Again, only after these two options have been discounted (as “inappropriate, unfeasible or unavailable”, Policy 2.6.1.4.d, consent memo version) can rezoning of other rural land be considered.

- 95 The requirement that clusters of sites to be rezoned to Rural Residential 1 are “either already being used for rural residential activity or there is a high degree of likelihood they will be developed for rural residential activity in the short term” (see clause a of Policy 2.6.1.3, decisions version) has also been removed.
- 96 These changes provide for a greater degree of flexibility in selecting land that is already fragmented to be considered for rezoning to RR1 or RR2. In my view, this is appropriate, as it creates more room for a suitable zoning type to be selected based on the individual circumstances of the proposed rezoning, including the predicted market availability of rural residential land at the time of the rezoning, and the likely range and magnitude of effects taking into account the location and extent of the land in question. I consider that this is likely to lead to a more efficient and effective process for the consideration of rural residential rezoning.
- 97 Thirdly, clauses ‘c.iii’, ‘c.iv’ and ‘c.v’ of Policy 2.6.1.5, which provide guidance for the assessment of proposed rural residential zoning against, respectively, Objective 2.4.4 relating to natural landscapes and features, Objective 2.4.5 relating to natural coastal character, and Objective 2.2.3 relating to indigenous biodiversity, have been amended in response to appeals from both PCT and Wyber.
- 98 The change in response to PCT is to amend the wording of the clauses ‘c.iii’ and ‘c.iv’ so that they indicate that achieving Objectives 2.4.4 and 2.4.5 involves:
- (a) “avoiding” rather than “generally avoiding” either RR1 or RR2 zoning in the Outstanding Natural Feature (ONF), Outstanding Natural Coastal Character (ONCC) and High Natural Coastal Character (HNCC) overlay zones, and
 - (b) “avoiding” rather than “generally avoiding” RR1 zoning in the Outstanding Natural Landscape (ONL) Overlay Zone.
- 99 I support this amendment which:
- (a) takes a total avoidance approach to all types of rural residential zoning in the highest value and most sensitive landscape and coastal character overlays (ONFs, ONCCs and HNCCs); and


- (b) avoids increased rural residential subdivision and development (that might occur through the application of RR1 zoning) in ONLs; but
- (c) allows consideration of RR2 zoning in the ONLs, which would only provide for a single residential activity on already subdivided sites in semi-developed clusters and no further subdivision.

100 I consider that it is the most appropriate means of achieving the relevant strategic objectives. ONFs, ONLs and ONCCs have been assessed as having outstanding landscape or natural coastal character values, requiring protection under section 6(a) and 6(b) of the Act. I note that all HNCCs (the Plan identifies five of these areas) are also identified as either ONFs or ONLs.

101 Whereas the ONL Overlay Zone covers large areas within the DCC boundaries, including many working farms, ONFs, ONCCs and HNCCs are relatively small and have generally been applied to areas with little or no built development, such as hilltops, coastal cliffs and islands. Supported by landscape architect evidence both pre-notification and in response to submissions, the Plan takes a highly protective approach to activities in ONFs, ONCCs and HNCCs (for example, all new structures in these areas, except for fences, are non-complying) and, in ONLs, balances protection of landscape values with provision for development that is, or has the potential to be, compatible with those values. This recognises that ONLs have a greater capacity than ONFs, ONCC and HNCCs to absorb human activity without adverse effects on protected values. Therefore, I consider that it is appropriate to take a different approach to rural residential zoning in ONLs from that taken in ONFs, ONCCs and HNCCs.

102 I do not consider that the identified values of ONFs, ONCC and HNCCs, set out in Appendices A3 and A5 of the Plan, which were based on expert input from DCC's landscape architects at the time of Plan drafting, are compatible with the level of development provided for in either the RR1 or the RR2 zones. Any change to zoning that enabled residential development in these areas would likely be inappropriate, and inconsistent with the Plan's objectives.

103 In ONLs, the scale of subdivision and development provided for in the RR1 Zone would be incompatible with protection of outstanding values. I note that Appendix A3 identifies 'continuing encroachment of development into pastoral areas' as a principal threat to the values of the two ONLs that are closer to urban Dunedin (the Heyward Coast and Peninsula Coast ONLs). However, as discussed above, the Plan uses



RR2 zoning to recognise existing patterns of subdivision and development rather than provide additional capacity. Therefore, I consider it appropriate to retain this zoning type as an option in ONLs, provided the rezoning can be undertaken while meeting Objective 2.4.4 (“Dunedin’s outstanding and significant natural landscapes and natural features are protected”).

- 104 The change in response to Wyber is to insert additional wording to clauses ‘c.iii’ and ‘c.iv’ of Policy 2.6.1.5 to clarify what is meant by the reference “generally avoiding” with respect to rural residential zoning in SNLs and NCCs, and with respect to Rural Residential 2 zoning in ONLs. For consistency, the same amendment has also been made in relation to Areas of Significant Biodiversity Value and Urban Biodiversity Mapped Areas, in clause c.v of Policy 2.6.1.5. The policy now indicates that rural residential zoning is to be avoided in all of these areas “unless rules (such as rules that restrict the scale and location of development activities) can ensure that *[the relevant strategic objective]* will be achieved”. I support these amendments and consider that they will increase efficiency and effectiveness by aiding the consistent interpretation of the policy.
- 105 Fourthly, in response to Wyber, a new clause has been added to Policy 2.6.1.5 to indicate that assessment of potential areas for rural residential zoning should include consideration of the proposal in relation to Objective 14.2.1 of the Plan, being “the relationship between Manawhenua and the natural environment is maintained or enhanced, including the cultural values and traditions associated with wāhi tūpuna, mahika kai and occupation of original native reserve land through papakāika”. I support this amendment, as it is clearly appropriate that this section 6 matter be considered in this context, and the amendment will contribute towards the achievement of Objective 14.2.1.
- 106 Definitions of “unfunded public infrastructure upgrades” and “cluster” are also added, in response to Wyber (376) and PCT (91) respectively, to clarify the use of these terms in policies 2.6.1.4 and 2.6.1.5. In my view, these definitions will aid the clear interpretation of the policies, thereby improving their efficiency and effectiveness.
- 107 Taken together, although these changes have the overall effect of being somewhat more enabling of new rural residential zoning, I consider that the policies will continue to give effect to clauses ‘d’ and ‘e’ of Policy 5.3.1 in the partially operative Otago Regional Policy Statement 2019, discussed above.

108 I believe that the policies, with the agreed changes, will contribute to “restricting the establishment of incompatible activities in rural areas that are likely to lead to reverse sensitivity effects” (Policy 5.3.1.d), for the following reasons.

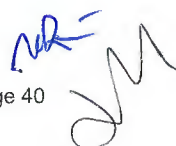
- (a) Policy 2.6.1.4 indicates that the amount of land rezoned rural residential should be limited, taking into account strategic objectives relating to a compact city, efficient use of public infrastructure, and an efficient transport network.
- (b) Clauses ‘c’ and ‘d’ of Policy 2.6.1.4 indicate that existing clusters of smaller sites should be prioritised for rural residential rezoning. This limits the potential for reverse sensitivity effects on rural activities.
- (c) It may be the case that providing for additional rural residential zoning in a carefully managed way, in accordance with the amended policies, absorbs demand for lifestyle living in a rural environment, and thereby reduces demand in rural zones where reverse sensitivity effects are potentially greater.

109 In terms of Policy 5.3.1.e, “minimising the subdivision of productive rural land into smaller lots that may result in a loss of its productive capacity or productive efficiency”, there is no substantive change to the wording of clause ‘c.ii.2’ of Policy 2.6.1.5, which indicates that new rural residential zoning should be assessed against Objective 2.3.1, and states that achieving this objective “includes generally avoiding areas that are highly productive land or may create conflict with rural water resource requirements”.

Rural strategic

110 As discussed in paragraphs 8 to 16, the 2GP’s approach to subdivision and residential development in rural zones has been designed to implement a wide range of 2GP objectives. Of these, I consider that the most relevant strategic objectives are:

- (a) Objective 2.3.1, relating to the protection of productive land from competing or incompatible uses
- (b) Objective 2.2.4, relating to retaining a compact and accessible city
- (c) Objective 2.2.2, relating to improved energy resilience, including increased capacity for local food production
- (d) Objective 2.4.6, relating to the character of the rural environment



111 The following objectives in Section 16: Rural Zones are also relevant (all of these are quoted in paragraph 33, above):

- (a) Objective 16.2.1, which describes the purpose of the rural zones
- (b) Objective 16.2.3, which sets out rural character and amenity values to be maintained or enhanced
- (c) Objective 16.2.4, relating to the productivity of rural activities

112 The changes to rural provisions set out in the attached consent memorandum are as follows.

- a. Amendment to Policy 16.2.1.7, to create a non-complying 'pathway', under s104D(1)(b) of the Act, for residential activities to be established on sites in the rural zones that contravene the minimum site area for residential activity (Rule 16.5.2 Density) where the activity is associated with a significant contribution to the enhancement or protection of biodiversity value. There are a number of consequential amendments associated with this change, including: an amendment to Rule 16.12.5.1 (assessment guidance); the addition of new Rule 16.13.2 (special information requirement); amendments to Policy 2.2.3.3, Policy 2.3.1.2, the introduction to Section 16 Rural Zones and Objective 16.2.1; and deletion of Policy 16.2.1.5.
- b. The addition of a new policy to clarify the limited circumstances in which subdivision that creates new sites below the minimum site size in rural zones should be contemplated, under s104D(1)(b). This change involves a consequential amendment to Rule 16.12.5.6 (assessment guidance).
- c. A range of changes to the density standard (Rule 16.5.2) that will provide for residential activity on existing undersized sites in a more enabling way, in certain situations. These changes involve consequential amendments to assessment rules for family flats that contravene the density standard.
- d. A change to the design standard for family flats (Rule 16.5.14.2) to allow farm worker accommodation to be established at some distance from the main dwelling, in rural zones with larger minimum site sizes – i.e. the High Country, Hill Country and Middlemarch Basin rural zones.

113 This section of the affidavit assesses each of these changes in turn to determine whether they are the most appropriate way to achieve the relevant objectives.

A. Changes to the policy framework for residential activity on undersized sites

114 As previously discussed, residential activity on sites that are below the minimum area required by the density standard (Rule 16.5.2) is a non-

complying activity. It is assessed against Policy 16.2.1.7. The decisions version of this policy is as follows:

Avoid residential activity in the rural zones on a site that does not comply with the density standards for the zone, unless it is the result of a surplus dwelling subdivision.

115 “Surplus dwelling subdivision” means a situation in which an existing dwelling on a rural-zoned site is subdivided off from a larger property, with no minimum requirement for the area of the new site containing the existing dwelling. This type of subdivision is provided for only in a fairly narrowly defined set of circumstances, set out in Rule 16.7.4.3. Therefore, for all other instances of residential activity on sites that do not meet Rule 16.5.2, Policy 16.2.1.7 simply states that the activity is to be avoided.

116 I note that, under the 2GP policy drafting protocol, which sets out standard wording to be used in policies that relate to different activity statuses, the unqualified “Avoid [x activity].” wording is associated with prohibited activity status. In the case of non-complying activity status, the standard wording in the drafting protocol is “Avoid [x activity], unless [the following test is met]”. This reflects the fact that, unlike in the case of prohibited activities, consent applications may be lodged for non-complying activities, and may be granted in the circumstances subject to s104 and s104D of the Act. Thus, non-complying activity status is used in the Plan not to rule out the activity in question completely, but to require a stringent examination of it in terms of section 104D. For this reason, I support the addition of an “unless...” clause to the policy to apply to residential activities on undersized sites that are not the result of surplus dwelling subdivision.

117 In terms of the content of the new clause, the amendment to Policy 16.2.1.7 set out in the consent memorandum, in response to appeals from both Federated Farmers and Blueskin, is as follows:

Policy 16.2.1.7

Avoid residential activity in the rural zones on a site that does not comply with the density standards for the zone, unless:

a. it is the result of a surplus dwelling subdivision; or

b. the residential activity will be associated with long term land management and/or capital investment that will result in:

i. significant positive effects for rural productivity; and/or



- ii. a significant contribution to the enhancement or protection of biodiversity values.

- 118 I consider that there are two main benefits to this change. Firstly, it recognises that, in some cases, viable uses of undersized rural sites for rural activities may be limited, and amalgamation with other sites may not be feasible. As a result, closing the door to residential use may lead to poor management of land (for example, if land is left vacant).
- 119 Secondly, the change provides a pathway for residential use where a significant positive effect for productivity or biodiversity can be proven. This creates a strong incentive to explore options for undersized sites that result in positive effects of this kind, which could increase the likelihood of projects taking place that create benefits for productivity and/or biodiversity values, in keeping with Objectives 2.3.1 and 2.2.3. This may in turn lead to associated benefits for rural character and amenity, landscape values, and natural character values.
- 120 In terms of costs, there is a potential for the new pathway in clause 'b' to be abused, if applications claim that actions leading to positive effects for productivity/biodiversity will be taken, simply in order to obtain consent for residential activity, but these actions are not in fact taken once consent is granted. However, I consider that this risk is sufficiently mitigated via the appropriate drafting of assessment guidance and information requirements for consent applications, discussed below.
- 121 It is possible that, compared to the decisions version of Policy 16.2.1.7, the amendment may lead to greater numbers of dwellings on undersized sites in the rural environment, which increases risk of: pressure for further fragmentation (and thus loss of productive land, displacement of rural activities, adverse effects on character/amenity); reverse sensitivity; and pressure for infrastructure expansion. A significant increase in these risks would be contrary to Objectives 2.3.1, 2.4.6 and 2.7.1.
- 122 However, based on an analysis of past consenting practice, I consider it likely that, in some cases, consents for residential activity on undersized sites would be granted as true exceptions, even if Policy 16.2.1.7 were not amended. Therefore, the difference in the number of dwellings on undersized sites consented as a result of the change may not in fact be significant. If this is true, the change to the policy and the addition of associated guidance will improve outcomes by clearly guiding decision-makers to consent these non-complying activities only if the significant benefits described in the amended provisions are shown (and by making this guidance available to potential applicants for this type of consent).



Also, decision-makers will continue to have the option of declining consent if it is considered that, based on a site and project-specific assessment, the risk of any of the adverse outcomes set out in paragraph 121 is too great.

123 A further potential disadvantage to the amendment to Policy 16.2.1.7 is that, because it represents a slightly less restrictive approach to residential activity on undersized sites than in the case under the decisions version of the wording, there is a risk that the amendment could incentivise applications to subdivide land in rural zones to create new undersized sites. Under the current wording (if it is implemented by decision-makers as an absolute prohibition on residential activity on undersized sites), there is no point in applying for subdivision consent to create sites of this kind with the intention of developing or marketing them for residential purposes. As discussed above, I do not think it is likely that the decisions version of the policy would mean, in practice, that no consents for dwellings on undersized sites were granted. However, given the importance of avoiding further fragmentation of land in the rural zones, I consider that, to mitigate the possible risk that the change to Policy 16.2.1.7 will incentivise applications for subdivision below the MSS, an additional policy should be added to the Plan relating to subdivision of this kind. See discussion beginning at paragraph 141 below.

124 I consider that improvements to productivity and biodiversity are the appropriate positive outcomes to focus on in the amendment to the policy. This supports the achievement of strategic objectives 2.3.1 (relating to productivity) and 2.2.3 (relating to biodiversity). Projects that achieve these outcomes could include, for example, significant investment in glass houses required for a commercial-scale horticultural operation, or commitment to planting, fencing, pest management or other management to protect and restore an area of indigenous vegetation that provides an ecological corridor between other areas of vegetation. It is more difficult to envisage projects that would result in direct significant benefits to other strategically important values, such as landscape values (Objective 2.4.4), natural coastal character values (Objective 2.4.5), rural character (Objective 2.4.6) or Manawhenua values (Objective 2.5.3)⁴, although significant benefits to biodiversity may well result in benefits to one or more of these other values as well. Therefore, I consider that limiting new clause 'b' to residential activity associated with significant productivity and biodiversity benefits is appropriate.

⁴ Noting that the plan already provides exceptions for Papakāiika housing.

125 Turning to the consequential amendments to assessment guidance (Rule 16.12.5.1) for applications made under new clause 'b' of Policy 16.2.1.7, and the addition of a 'special information requirement' rule for these applications (Rule 16.13.2), I consider that this material provides useful guidance to decision-makers and applicants, and will provide a safeguard against the potential for abuse of new clause 'b' discussed in paragraph 120.

126 Rule 16.13.2 indicates that applications based on significant benefits to biodiversity must be accompanied by an ecological restoration plan, prepared by an ecologist or other suitably qualified person. The rule sets out a comprehensive list of the matters that should be addressed in the plan. This list was drafted with input from the DCC's Biodiversity Advisor, Mr Richard Ewans, as was the guidance in Rule 16.12.5.1.h on the assessment of the significance of a benefit to biodiversity.

127 In the case of significant benefits to productivity, Rule 16.13.2 indicates that applications should, in most circumstances, be accompanied by a farm management plan or similar, again prepared by a suitably qualified person. For this type of project, Rule 16.12.5.1.g also indicates the level of investment likely to be considered necessary to meet the policy test, as follows:

Types of land management or capital investment that may meet Policy 16.2.1.7.b.i, depending on the specific circumstances of the site and proposal, include substantial investment in farm buildings or other farm assets required for commercial-scale horticulture or other commercial-scale farming.

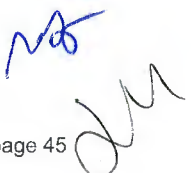
128 Two strategic policies are amended in consequence of the amendment to Policy 16.2.1.7. These are Policy 2.2.3.3, which sets out the methods used in the Plan to maintain or enhance indigenous biodiversity in the rural environment, and Policy 2.3.1.2, which sets out the methods used to maintain or enhance the productivity of rural activities. There are also two minor amendments to Policy 2.2.3.3, made under clause 16 of First Schedule of the Act.

129 The amendments to Policy 2.2.3.3 are as follows:

Policy 2.2.3.3

Maintain or enhance indigenous biodiversity in the rural environment through ~~rules that:~~

a. rules that:



a. i. require indigenous vegetation clearance to be set back from the coast, wetlands and water bodies, and that restrict indigenous vegetation clearance in the coastal environment and in wetlands;

b. ii. protect significant indigenous vegetation and/or significant habitats of indigenous fauna in Areas of Significant Biodiversity Value (ASBVs);

c. iii. protect threatened species and mature examples of important native trees, and otherwise limit the clearance of indigenous vegetation;

d. iv. manage the location and scale of development adjacent to the coast and water bodies; and

e. v. require esplanade reserves or esplanade strips when land is subdivided adjacent to the coast and identified water bodies; and

b. policies and assessment rules that:

f. i. require the assessment of effects on biodiversity values for discretionary and non-complying land use, development and city-wide activities;

ii. require the assessment of positive effects on biodiversity values for restricted discretionary, discretionary or non-complying land use, development and city-wide activities; and

iii. create a pathway for residential activities to be established on sites in the rural zones that contravene the minimum site area for residential activity (density standard) where the activity is associated with a significant contribution to the enhancement or protection of biodiversity values.

130 The changes shown above are made for the following reasons:

a. as a minor amendment, the structure of the policy is changed:

i. to group clauses 2.2.3.3.a-e together under new clause 2.2.3.3.a, to clarify that these matters are managed through "rules" (i.e. activity status rules and performance standards), and

ii. to group clauses 2.2.3.3.f, and the two new clauses that are added via amendments discussed below, together under new clause 2.2.3.3.b, to clarify that these matters are managed through "policies and assessment rules"

b. new clause 2.2.3.3.b.iii is added as a consequential amendment, to recognise that the changes to Policy 16.2.1.7 and associated assessment rule 16.12.5.1 add a new method to the plan that could contribute to the achievement of Objective 2.2.3, and

c. as a further minor amendment, an additional clause (2.2.3.3.b.ii) is added relating to existing policies and assessment rules in the Plan (e.g. Policy 10.2.1.5 and associated assessment rules) that promote the consideration of positive effects on biodiversity. This does not result in any substantive change to the plan, but rather highlights the connection between existing policies and assessment rules and Policy 2.2.3.3/Objective 2.2.3.

131 I consider that the substantive change to Policy 2.2.3.3, i.e. the addition of clause b.iii, appropriately describes Policy 16.2.1.7 and its associated assessment rule as a method that contributes to the maintenance and enhancement of indigenous biodiversity.

132 The consequential amendment to Policy 2.3.1.2 is to add new clause c.iv and delete clause d, as follows:

Policy 2.3.1.2

Maintain or enhance the productivity of farming and other activities that support the rural economy through:

...

c. zoning and rules that limit subdivision and residential activity based on;

- i. the nature and scale of productive rural activities in different parts of the rural environment;
- ii. the location of highly productive land; and
- iii. potential conflict with rural water resource requirements; and
- iv. in the case of residential activity:
 1. recognition of the existing pattern of subdivision in the different parts of the rural environment; and
 2. provision for papakāika;

~~d. rules that restrict residential activity within the rural environment to that which supports productive rural activities or that which is associated with papakāika; ...~~

133 I consider that clause 'd' should be deleted and clause 'c' amended as shown, so that the policy does not conflict with the revision to Policy 16.2.1.7, and so that it includes a more comprehensive list of the key considerations behind the residential density rule. Given that the amendments to Policy 16.2.1.7 create a pathway for residential activity that is associated with biodiversity gains, and not necessarily also with farming or another productive rural activity, it is no longer accurate to refer to residential activity in rural zones being restricted "to that which supports productive rural activities or that which is associated with papakāika".

134 In association with this change, a brief description of the different methodologies that were used when selecting the minimum site size required for new residential activity (Rule 16.5.2 Density), and the minimum site size for required for subdivision of land (Rule 16.7.4 Minimum Site Size), has also been added to the introduction to Section 16 Rural Zones. In my view, this provides a useful explanation to plan



users as to why the minimum area in Rule 16.5.2 is often less than the minimum area in Rule 16.7.4. This issue was traversed in the course of discussion with parties on these appeals; therefore I consider that including this detail in the introduction (rather than in background s32 reports only) will assist with plan interpretation.

135 As in the case of Policy 2.3.1.2, wording referring to residential activity in rural zones being limited to that which “supports farming” or is “associated with papakāika” is also removed from Objective 16.2.1 and Policy 16.2.1.5 in consequence of the change to Policy 16.2.1.7.

136 This is achieved in Objective 16.2.1 by the deletion of the final sentence, and in Policy 16.2.1.5 by the deletion of the whole policy, as follows:

Objective 16.2.1

Rural zones are reserved for productive rural activities and the protection and enhancement of the natural environment, along with certain activities that support the well-being of communities where these activities are most appropriately located in a rural rather than an urban environment. ~~Residential activity in rural zones is limited to that which directly supports farming or which is associated with papakāika.~~

Policy 16.2.1.5

~~Require residential activity, with the exception of papakāika, in the rural zones to be at a level (density) that supports farming activity and achieves objectives 2.3.1, 2.4.6, 16.2.2, 16.2.3 and 16.2.4 and their policies.~~

137 With respect to Objective 16.2.1, I consider that the deletion of the final sentence is the appropriate way to amend this provision in consequence to the change to Policy 16.2.1.7. I do not think there is any need to refer specifically to residential activities in the objective, given that the function of the objective is to set out the principal purpose of the rural zones. For comparison, objectives 15.2.1 and 17.2.1 have similar functions for the residential zones and rural residential zones, respectively, and read as follows:

Objective 15.2.1

Residential zones are primarily reserved for residential activities and only provide for a limited number of compatible activities, including: visitor accommodation, community activities, major facility activities, and commercial activities that support the day-to-day needs of residents.

Objective 17.2.1

The rural residential zones enable lifestyle blocks, hobby farms and associated residential activities as the appropriate place in the rural environment for these to occur, and provide for a limited range of other compatible activities.

- 138 I consider that the deletion of the final sentence of Objective 16.2.1 aligns with the drafting of these other objectives. Similarly, it is unusual, in terms the Plan's drafting protocol, that the decisions version of Section 16 contains both a "Require..." policy (Policy 16.2.1.5) relating to the density standard and an "Avoid..." policy (Policy 16.2.1.7) relating to residential activities that contravene this standard. In my view, it is not necessary to retain both policies, because they both fulfil the same function – i.e. the assessment of residential activities that contravene Rule 16.5.2, in terms of their potential to displace productive rural activities from rural-zoned land.
- 139 Following the amendment to Objective 16.2.1 and the deletion of Policy 16.2.1.5, there is still a strong policy framework in Section 16 to support the approach taken to the density of residential activity in rural zones, via Objective 16.2.1 and Policy 16.2.1.7. Objective 16.2.3 and Policy 16.2.3.2, relating to the role of the density standard in maintaining rural character and amenity, are also relevant.
- 140 Overall, therefore, I consider that the amendment to Policy 16.2.1.7, and the various amendments to other provisions in consequence of this, are the most appropriate way to achieve the relevant 2GP objectives referred to in paragraphs 110 and 111. They will also contribute to the achievement of Objective 2.2.3, relating to indigenous biodiversity. In the case of the amendment to Objective 16.2.1, I consider that this change is the most appropriate way to achieve the purpose of the Act.

B. Addition of a policy to guide assessment of subdivision that does not comply with MSS

- 141 As discussed in paragraph 123, I consider that it is necessary, as a further consequential amendment to the change to Policy 16.2.1.7 that responds to the appeals from Blueskin and Federated Farmers, to add a new policy to the Plan relating to subdivision that contravenes the MSS. This policy is worded as follows:

Policy 16.2.1.5

Avoid subdivision activities that create one or more resultant sites that contravene the minimum site size standard for the zone, unless:

- a. the subdivision is provided for under Policy 16.2.1.10; or
- b. the subdivision, considered as a whole:
 - i. will not result in an increase in the number of sites that contravene the minimum site size; and
 - ii. will not result in an increase in the residential development potential of the subject land, beyond that provided for by the density land use performance standard and the minimum site size subdivision standard; and
 - iii. will meet policies 16.2.3.8 and 16.2.4.3.

142 In my view, discussed above, the addition of this policy is necessary to mitigate the potential risk that the change to Policy 16.2.1.7 will provide an incentive to apply for subdivision that creates sites under the MSS.

143 In the decisions version of the Plan, there is no policy in Section 16 Rural Zones that sets out the tests to be met by proposed subdivision activities that contravene the MSS. Instead, the assessment guidance for non-complying activities links directly back to the strategic direction policies 2.2.2.1, 2.2.4.4, 2.3.1.2, and 2.4.6.2. This is unusual in terms of the 2GP drafting protocol and the approach taken to policy drafting elsewhere in the Plan. As discussed in the affidavit of Dr Anna Johnson dated 14 May 2019, in most cases strategic directions are fully incorporated into lower order objectives and policies and do not need to be referred back to in terms of plan interpretation, except in the case of a relatively small number of cross-plan policies that have no logical place in the other plan sections. Performance standards are generally supported in the policy framework by a policy that directly states the test to be met if the standard is contravened.

144 I consider that the policy wording set out above is appropriate for the following reasons. Firstly, clause 'a' recognises that subdivision creating a site below the MSS is provided for in the specific case of surplus dwelling subdivision, as discussed in paragraph 115. Clause 'a' refers to the policy that provides for surplus dwelling subdivision. Secondly, clause 'b.iii' provides a cross-reference to policies that apply to all subdivision in rural zones, regardless of whether the MSS is met. The crux of the new policy is clauses "b.i" and "b.ii", which clearly set out the outcomes that must be achieved by subdivision, in order to prevent:

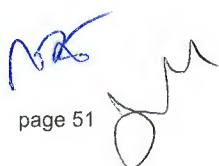
- (a) further fragmentation of land in the rural zones (b.i);
- (b) and increased residential development potential in rural zones, beyond that provided for under the relevant performance standards (b.ii).

145 In my view, these outcomes are necessary to achieve Objectives 2.3.1 and 2.2.2 in relation to protecting productive rural land from



competing/incompatible uses and increasing the capacity for local food production, Objective 2.2.4 in relation to retaining a compact and accessible city, and Objective 2.4.6 in relation to maintaining the character of the rural environment.

- 146 Under the new policy, there would be a pathway for consent to be granted to minor 'boundary adjustment' subdivisions, which rearrange the boundaries of existing undersized sites (thereby creating 'new' undersized sites) but do not increase the number of non-complying sites and do not increase residential development potential.
- 147 There would also be a pathway for more significant transfers of land between sites, provided that clauses b.i and b.ii were met. Some landowners, particularly those owning properties made up of multiple certificates of title, may seek to transfer several hectares of land from an existing undersized site to a neighbouring larger site, and at the same time to apply for consent (as a non-complying activity) to develop the smaller site either for themselves or to on-sell. In this way, it would be possible both to consolidate land in the larger site to make it more viable for farming or another productive rural use, and to reduce the area of the smaller site to a more manageable 'lifestyle' size. I am aware (through consultation feedback) of this situation existing in cases of farm succession, whereby farmers may retire on farm to a smaller block with the next generation taking over the main homestead. In other cases, there is a desire to free up capital to invest in the farm. In my view, it is desirable to have a pathway for this type of subdivision, because the amalgamation of rural land into larger sites is generally likely to be beneficial for productivity.
- 148 Rule 16.12.5.6 (assessment guidance for subdivision that contravenes the MSS) has been amended to add new clause 'j' which provides guidance on the type of situation set out in the previous paragraph. I consider that it would also be helpful to make guidance available on the Council's website to aid the interpretation of Policy 16.2.1.5 as it applies to this kind of subdivision, with examples provided in the form of site plans. An advice note could then be added to Rule 16.12.5.6 to link to this illustrated guidance.
- 149 Overall, in my view, the addition of new Policy 16.2.1.5 and the associated amendments to Rule 16.12.5.6 are the most appropriate way to achieve the relevant 2GP objectives referred to in paragraphs 110 and 111.



C. Changes to Rule 16.5.2 Density

- 150 There are three agreed changes to the density standard (Rule 16.5.2), set out in the consent memorandum, that will provide for residential activity on existing undersized sites in a more enabling way in some situations.
- 151 Firstly, in the Peninsula Coast Rural Zone, in response to the appeal from Bruce Taylor, a single residential activity is permitted (as opposed to non-complying in the decisions version of the rule) on each existing site between 15ha and 20ha that existed prior to the notification of the 2GP.
- 152 This change affects a total of 27 sites⁵ in the Peninsula Coast Rural Zone that are between 15 and 20ha in area and that do not currently contain a dwelling. Because of the location of this zone, there is likely to be demand for lifestyle development on these sites. However, around a third of these sites have characteristics (e.g. relating to slope, distance from services, feasibility of vehicle access, lot shape, and current land use), that make this type of development less likely. The small number of sites involved reduces the magnitude of the potential adverse effects of this change, in terms of resulting in lifestyle block development that could threaten rural productivity by increasing the potential for reverse sensitivity effects, increasing pressure for further subdivision of the land, and increasing pressure for the expansion of public infrastructure. In terms of benefits, the key benefit is to the owners of the 27 sites, who regain the development rights that they had under the Operative District Plan. This will increase the capital value of the sites, thereby providing a benefit to the owners regardless of whether or not the sites are ultimately developed. Given the small number of sites concerned, I consider that the benefits to landowners will outweigh the potential adverse effects.
- 153 I consider that it is appropriate to take this approach in the Peninsula Coast Rural Zone but not in other rural zones for the following reasons.
- (a) Compared to the other zones for which the minimum site area for a single residential activity, under Rule 16.5.2, is greater than 15ha, there is a relatively small difference between the 2GP and ODP minimum areas for residential density in the Peninsula Coast Rural Zone (15ha in the ODP compared with 20ha in the 2GP). The other rural zones in this situation are the Taieri Plains Rural Zone (where the 2GP density standard is 25ha), the Middlemarch Basin Rural Zone (40ha) and the High Country and Hill Country rural zones (both

⁵ The numbers of vacant sites in the different rural zones that are quoted here are based on data gathered by the Council in January 2020.

100ha). Therefore, providing for residential activity on existing sites of over 15ha in the Peninsula Coast Rural Zone is less of a departure from the methodology used to establish appropriate minimum areas for density in the rural zones, which is described in paragraphs 31 and 32.

- (b) Threats to productivity from lifestyle development in the Peninsula Coast Rural Zone are reduced due to the fact that this zone does not contain significant areas of highly productive land (i.e. areas mapped as containing high class soils on the 2GP Planning Map, or as Land Use Capability classes 1-3 on the 2GP Data Map). In comparison, almost all of the Middlemarch Basin and Taieri Plains rural zones are overlain by mapping of either high class soils or LUC 1-3 land (or both).
- (c) Although there are potential threats to landscape, coastal character and biodiversity values from lifestyle development in the Peninsula Coast Rural Zone, I consider that this is appropriately managed via 2GP rules that require resource consent for:
 - (i) buildings and structures in landscape and coastal overlay zones that are over 60m² (Rule 16.3.4.5), and/or that contravene performance standards for maximum reflectivity (Rule 10.3.6), maximum height (Rule 16.6.5), and number and location of buildings (Rule 10.3.5), and
 - (ii) vegetation clearance that is over a certain size, that occurs in certain sensitive locations e.g. near water, and/or that affects indigenous vegetation or fauna (Rule 10.3.2).

154 Secondly, in response to the Blueskin appeal, the Middlemarch Basin, High Country and Hill Country rural zones, the 'sunset period', during which a single residential activity is permitted on each site between 15ha and the 2GP density standard that existed prior to the notification of the 2GP, is extended by two years, from 7 November 2023 to 7 November 2025. At the end of this period, the activity status will become non-complying.

155 This change will provide additional flexibility for owners of sites between 15ha and the 2GP density standard. The more gradual transition to the higher density standard recognises that news of change to rules may take some time to reach all those affected. There are, in total, 238 vacant sites between 15ha and the 2GP density standard in the Middlemarch Basin, High Country and Hill Country rural zones. However, the proportion of these sites that are developed prior to November 2025 will be limited by

their location; all such sites in the Middlemarch Basin and High Country zones and most in the Hill Country are located a significant distance from Dunedin's main urban area, making them less attractive as lifestyle blocks. Therefore, again, given the low numbers of sites likely to be developed during the sunset period, I consider that the benefits to landowners outweigh the potential adverse effects in relation to reverse sensitivity, pressure for further land fragmentation and pressure for infrastructure expansion.

- 156 Following the changes set out above, the only rural zone that has a minimum site size for the first residential activity of over 15ha and that does not have an exemption or sunset clause for sites between 15ha and the new density standard will be the Taieri Plains Rural Zone. In response to feedback from appellants, I have closely considered the possibility of introducing a sunset clause in this zone, in recognition of the situation of the owners of the sites between 15 and 25ha in this zone who have lost residential development rights due to the change to the density rule. The key difference between this zone and other rural zones in Dunedin is that it is the zone with most productive land in Dunedin, and is also – unlike the Middlemarch Basin Rural Zone, which also contains highly productive land – located close to the main urban area of Dunedin, and is an area where lifestyle blocks are in high demand. The Taieri Plains Rural Zone is almost entirely covered by areas with a land use capability of 1, 2 or 3, as shown on the 2GP Data Map, and is also covered by significant areas of high class soils, as shown on the Planning Map. Therefore, in terms of Objective 2.3.1, any more permissive approach to potential lifestyle-scale development on this land is difficult to justify.
- 157 I note, however, that in certain circumstances, as described in new clause 'b' of Policy 16.2.1.7 and associated assessment guidance, set out in section A above, there is a potential pathway for residential activity to obtain consent, as a non-complying activity, on the sites in this zone that are under 25ha.
- 158 Finally, in response to Blueskin, Rule 16.5.2 Density is more enabling as it applies to family flats, in two ways.
- (a) The activity status of family flats that are associated with residential activities that do not meet the density standard is amended, via the addition of new clause 'b' to Rule 16.5.2.3. Instead of non-complying (as per the decisions version of the rule), family flats in this situation are restricted discretionary if the site area is 15ha or greater, and discretionary on sites under 15ha. I note that the activity status for family flats on sites of different sizes needs to be

differentiated in this way due to the nature of the relief sought in the Blueskin appeal. If the scope of appeals had allowed, I would have supported a change to restricted discretionary status for new family flats associated with existing residential activities on sites of any size. This change also involves consequential amendments to relevant assessment guidance (Rules 16.9.3.X and 16.11.3.X).

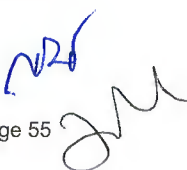
(b) Rule 16.2.5.2 is amended to permit one family flat in association with each residential activity that meets the density standard, rather than being limited to one family flat per site.

159 Both of these changes could have the effect of increasing the numbers of family flats, and thus the level of residential development, in rural zones. Again, this entails an increased risk of reverse sensitivity, pressure for further land fragmentation and pressure for infrastructure expansion. However, I do not consider that, in practice, the numbers of family flats that are established will be significantly affected by the changes. The change described at 'b' will only be relevant in the case of large sites that contain multiple residential activities, and where there is a desire to establish a family flat in association with more than one of these activities. Also, the numbers of family flats that can be established following the change described at 'b' will be no more than could be established if the large site was subdivided in accordance with the MSS rule.

160 In relation to the changes described at 'a', I have examined recent resource consent applications for family flats associated with residential activities on undersized sites, and I note that in the cases I have looked at (three resource consents issued over a six month period in 2019), all consents were granted with adverse effects often being considered no more than minor. Based on this sample of consents data, it appears that consents are already being granted for this type of activity quite frequently.

161 I consider that this data reinforces the fact that applying non-complying activity status in this situation is excessively strict. In my view, the use of non-complying activity status for activities to which consent is likely to be granted could result in a perceived downgrading of the strictness of this type of rule.

162 Further, I note that the relevant assessment guidance for family flats on undersized sites (Rules 16.9.3.X and 16.11.3.X set out in the consent memorandum) includes assessment of the potential for reverse sensitivity effects, effects on the long term maintenance of rural land for productive rural activities, and effects on the efficiency and affordability of infrastructure. These effects could be managed by imposing conditions



(e.g. on the location of the family flat in relation to neighbouring properties), or, if necessary, by declining consent.

- 163 Overall, I consider that the changes to Rule 16.5.2 described above, and associated consequential changes to assessment rules, are the most appropriate way to achieve the relevant 2GP objectives referred to in paragraphs 110 and 111.

D. Change to Rule 16.5.14.2 Family Flats – Design

- 164 The final change in the consent memorandum responds to Federated Farmers' appeal by amending Rule 16.5.14.2 to allow farm worker accommodation to be established at some distance from the main dwelling, in rural zones that – under Rule 16.5.2 – have larger minimum site area requirements for residential activities, i.e. the High Country, Hill Country and Middlemarch Basin rural zones.
- 165 I note that, under the performance standard regarding tenancy of family flats (Rule 16.4.14.1), family flats may be occupied either by family members of the household living in the main dwelling or by persons “employed on-site, in a paid or voluntary capacity, as a domestic, child-care, farm or conservation worker by the household that lives in the primary residential unit on the same site”. Therefore, in rural zones, “family flats” may well be established for use as farm workers' accommodation.
- 166 I understand, based on information from Federated Farmers, that the decisions version of Rule 16.5.14.2 was problematic from the point of view of the operational needs of farms, because of the requirement to locate family flats within 30m of the main dwelling and the requirement for the flat to use the same water and waste connection (or non-reticulated wastewater disposal system), the same electricity account and the same vehicle access as the main dwelling. Federated Farmers noted that, under this rule, almost every farm worker accommodation situation, particularly in the High Country and Hill Country areas, would trigger the need for consent. However, the ability to establish on-farm workers' accommodation can be important to the operational needs of farms, particularly when farms are located significant distances from towns, given that farm-hands often work throughout the night and need nearby accommodation.
- 167 I accept these arguments, and I do not consider that the potential adverse effects of amending the rule to allow farm worker accommodation to be located far from main dwellings in the zones in question are likely to be significant. As set out in Policy 16.2.1.6, the purpose of requiring family

flats to locate near main dwellings and to share services with them is to reduce potential pressure for land fragmentation by reducing:

- (a) the risk that the flats will be used for separate, non-ancillary residential activities, and
- (b) the risk that there will be future pressure to subdivide off family flats.

168 These risks are higher in rural zones that are located close to main urban centres, where demand for rural living is higher. In the High Country, Hill Country and Middlemarch Basin rural zones, I consider that the benefits of the change to Rule 16.5.14.2 outweigh the costs, and, therefore, that the change is the most appropriate way to achieve relevant objectives, particularly Objective 2.3.1 and Objective 16.2.1.

Effect of any appeals on relevant objectives and policies

169 For completeness, I have assessed the appeals on the related objectives and policies to ensure no appeals are likely to change the policy framework in a way that would change the above assessment for either the rural residential strategic topic or the rural strategic topic.

Objective 2.3.1

170 As discussed in the Section 32AA assessment, this is a key strategic objective for both rural residential strategic policies and provisions for subdivision and residential development in rural zones. The objective relates to the protection of economically and socially important land and facilities, including productive rural land, as well as other land/facilities such as industrial land and utilities.

171 BP Oil New Zealand Limited and Others (374) seek an amendment to Objective 2.3.1 as it relates to infrastructure. In my view, the outcome of these appeals could not affect the s32AA assessment above, because they do not concern the aspect of the objective that relates to productive rural land. In addition, I note that a consent memorandum was signed by all parties on 31 July 2020, to resolve the relevant part of BP Oil NZ Ltd and Others' appeal with no change to Objective 2.3.1.

Objective 2.4.4

172 This objective, relating to outstanding and significant landscapes and features, forms part of the policy framework for the rural residential strategic policies. Policy 2.6.1.5.c.iii paraphrases Objective 2.4.4 and indicates that proposed rural residential zoning should be assessed in relation to whether it achieves this objective.

- 173 Saddle Views Estate Limited (ENV-2018-CHC-283, appeal point 323) and Tussock Top Farms Ltd (ENV-2018-CHC-282, appeal point 301) seek the deletion of the objective; if this occurred, it would clearly have the potential to affect the part of the S32AA assessment above, for the rural residential topic, that relates to assessment of whether the agreed changes implement Objective 2.4.4.
- 174 However, I note that a consent memorandum signed by all parties, dated 23 March 2021, resolves the relevant parts of the appeals from Saddle Views Estate Limited and Tussock Top Farms Limited with no change to Objective 2.4.4.

Objective 2.5.3 and Objective 14.2.1

- 175 These objectives relate to protection of wāhi tupuna. They form part of the policy framework for the rural residential strategic policies, because Policy 2.6.1.5.c.viii indicates that proposals for areas of new rural residential zoning are to be assessed against Objective 14.2.1.
- 176 Saddle Views Estate Limited (appeal point 324) and Tussock Top Farms Ltd (appeal point 302) seek deletion of Objective 2.5.3 from the Plan. Although they do not directly request a change to Objective 14.2.1, if Objective 2.5.3 were deleted this would require a significant consequential change to Objective 14.2.1. This could affect the part of the S32AA assessment above, for the rural residential topic, that relates to assessment of whether the agreed changes implement Objective 14.2.1.
- 177 However, I note that a consent memorandum signed by all parties, dated 23 March 2021, resolves the relevant parts of the appeals from Saddle Views Estate Limited and Tussock Top Farms Limited with no change to Objective 2.5.3 or Objective 14.2.1.

Objective 10.2.2

- 178 This objective concerns the maintenance and enhancement of the biodiversity values and natural character of the coast and riparian margins. It forms part of the policy framework for the rural residential strategic policies, because Policy 2.6.1.5.c.vi indicates that proposals for areas of new rural residential zoning are to be assessed against Objective 10.2.2.
- 179 Royal Forest and Bird ENV-2018-CHC-287 (appeal point 287) seeks that the objective be amended to refer to the “protection” of biodiversity values and the “preservation” of natural character, rather than the “maintenance” of both.

180 In my view, this requested change does not provide scope to significantly alter the focus of the objective, and therefore I do not consider that it could change the policy framework in a way that would affect the S32AA assessment above.

Objective 2.7.1

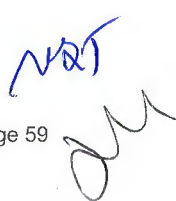
181 This objective concerns the efficient and effective operation of public infrastructure. It forms part of the policy framework for the rural residential strategic policies; under Policy 2.6.1.4.b, the objective is to be taken into account when determining the appropriate amount of land to be zoned rural residential.

182 The objective is subject to an appeal by BP Oil New Zealand Limited and Others ENV-2018-CHC-291 (appeal point 374). This appeal requests changes to strategic directions to “include appropriate recognition, provision and protection of strategic infrastructure”, with “strategic infrastructure” defined as including bulk fuel storage facilities, water and wastewater storage, treatment and discharge facilities, landfills, national defence facilities, and facilities for air quality and meteorological services.

183 Due to the nature of the changes sought, I do not consider that this appeal has the potential to change the policy framework in a way that would affect the S32AA assessment above. In addition, I note that a consent memorandum signed by all parties, dated 31 July 2020, resolves the relevant part of BP and Others’ appeal with no change to Objective 2.7.1.


Objective 16.2.1

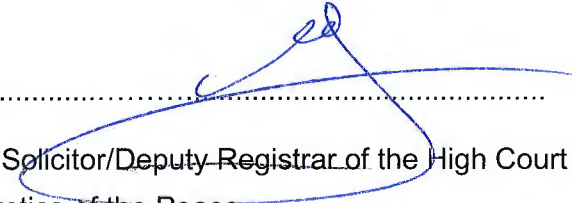
184 This objective (which is itself amended in the accompanying consent memorandum for the Blueskin, Federated Farmers and Taylor appeals) sets out the principal purpose of the rural zones. It forms part of the policy framework for the rural provisions.



185 As discussed above, Saddle Views Estate Limited and Tussock Top Farms Ltd sought a number of amendments to this objective in their appeals. Following mediation of the appeals from Saddle Views Estate Limited and Tussock Top Farms Limited, all parties have signed a consent memorandum (dated 23 March 2021) that would resolve the relevant parts of the appeals by amending Objective 16.2.1 in the same way that it is amended in the Rural Strategic consent memorandum. Therefore, I do not consider that these appeals have the potential to change the policy framework in a way that would affect the S32AA assessment above.

Affirmed at Dunedin)
By **Jane Elliot Macleod**)
this 30th day of April 2021,)
before me:


.....
Jane Elliot Macleod


.....
A Solicitor/Deputy Registrar of the High Court of New Zealand
Justice of the Peace

Maurice Raymond Turketo
Solicitor
Dunedin