

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

Decision No. [2026] NZEnvC 55

IN THE MATTER of the Resource Management Act 1991

AND an appeal under clause 14 of the First
Schedule to the Act

BETWEEN GLADSTONE FAMILY TRUST

(ENV-2023-CHC-17)

Appellant

AND DUNEDIN CITY COUNCIL

Respondent

Environment Judge P A Steven – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 25 March 2026

CONSENT ORDER

A: Under s279(1)(b) RMA,¹ the Environment Court, by consent, orders that:

- (1) the appeal is allowed subject to amendment of the Second Generation Dunedin City District Plan in accordance with Annexure 1, attached to and forming part of this order; and
- (2) the appeal is otherwise dismissed.

¹ Resource Management Act 1991.



B: Under s285 RMA, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns an appeal by Gladstone Family Trust (GFT) against part of the decisions by Dunedin City Council (Council) on Variation 2 to the Second Generation Dunedin City Plan (2GP).

[2] The appeal sought:

- (a) residential rezoning of 21, 43, 55, 65, 75, 77, 79, 111 and 121 Chain Hills Road and that a structure plan mapped area (SPMA) be applied; and
- (b) that an SPMA be applied to 90 Gladstone Road North and 98/100 Gladstone Road North.

[3] The Otago Regional Council joined the appeal under s274 RMA but gave notice of its withdrawal on 22 October 2025. Its withdrawal was confirmed in the court's Minute dated 28 October 2025.

Background

[4] The appeal was partially resolved by a previous consent order issued by the court on 6 August 2025.²

[5] The extant remainder of the appeal relates to an area of Land Use Capability (LUC) 3 land within the appeal site (LUC 3 Land) that meets the definition of "highly productive land" (HPL) in the National Policy Statement on Highly Productive Land (NPS-HPL). Urban rezoning of HPL was prohibited by clause

² *Gladstone Family Trust v Dunedin City Council* [2025] NZEnvC 260.

3.6 of the NPS-HPL.

[6] New amendments to the NPS-HPL came into force on 15 January 2026. This included the addition of an exemption at clause 3.6(6) of the NPS-HPL, which provides that “Clauses 3.6(1), 3.6(2), 3.6(3) and 3.6(4) do not apply to rezoning of LUC 3 land”.

Agreement reached

[7] In light of clause 3.6(6) of the NPS-HPL, the parties have agreed to add the LUC 3 Land to the Pinfold Place SPMA and to rezone this to a mix of General Residential 1 and Low Density Residential zoning, as indicated in the zoning map provided in Annexure A to this order.

[8] To add the LUC 3 Land to the Pinfold Place SPMA, two amendments to the Pinfold Place SPMA rules that were contained in Appendix 2 to the consent order dated 6 August 2025, and amendments to Figure 15.8.32A, are required. The changes are highlighted in Annexure B and summarised below:

- (a) the maximum number of resultant sites within the Pinfold Place SPMA has been amended so that up to 22 sites are permitted within Area C and up to 33 sites are permitted within Area D;
- (b) the landscape enhancement plan requirements include a requirement that sites wholly or partially above the 90m contour within Area A and Area D must have a landscaping strip of at least 2m width along the entire length of the northern and western boundaries of the sites; and
- (c) the amendments to Figure 15.8.32A include extension of Area C, inclusion of Area D, and extension of the ‘Restricted Development Area – Landscape (3m wide strip)’ north into Area D (above the 90m contour).

Section 32AA evaluation

[9] A further evaluation as to the appropriateness of the agreed amendments is contained in the affidavit of Ms Emma Jane Spalding,³ senior policy planner at DCC. In summary, the evaluation concludes that:

- (a) the addition of the LUC 3 Land to the Pinfold Place SPMA will not impact upon the safety and efficiency of the wider roading network;
- (b) the rezoning will not result in pressure for unfunded public infrastructure upgrades and will meet the relevant 2GP strategic objectives 2.7.1 and 2.7.2;
- (c) the rezoning will not detract from the character and visual amenity of Dunedin's rural environment and will meet the relevant 2GP strategic objective 2.4.6;
- (d) in light of clause 3.6(6) of the NPS-HPL, rezoning the LUC 3 Land is considered to be consistent with 2GP strategic objective 2.3.1, as well as with policy 5 and the objective of the NPS-HPL; and
- (e) incorporating the LUC 3 Land into the Pinfold Place SPMA will assist in delivering a well-functioning urban environment by avoiding creating isolated pockets of rural land within an otherwise urban environment.

[10] Ms Spalding confirmed that the s32AA evaluation contained in her previous affidavit⁴ in relation to the earlier consent order also applies and is adopted in relation to the rezoning of the LUC 3 Land.

Consideration

[11] I have read and considered the consent memorandum of the parties dated

³ Affirmed 12 March 2026.

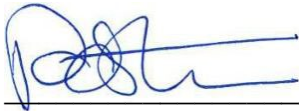
⁴ Affirmed 30 June 2025.

12 March 2026 and the affidavits of Ms Spalding.

[12] The parties advise that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, pt 2.

Outcome

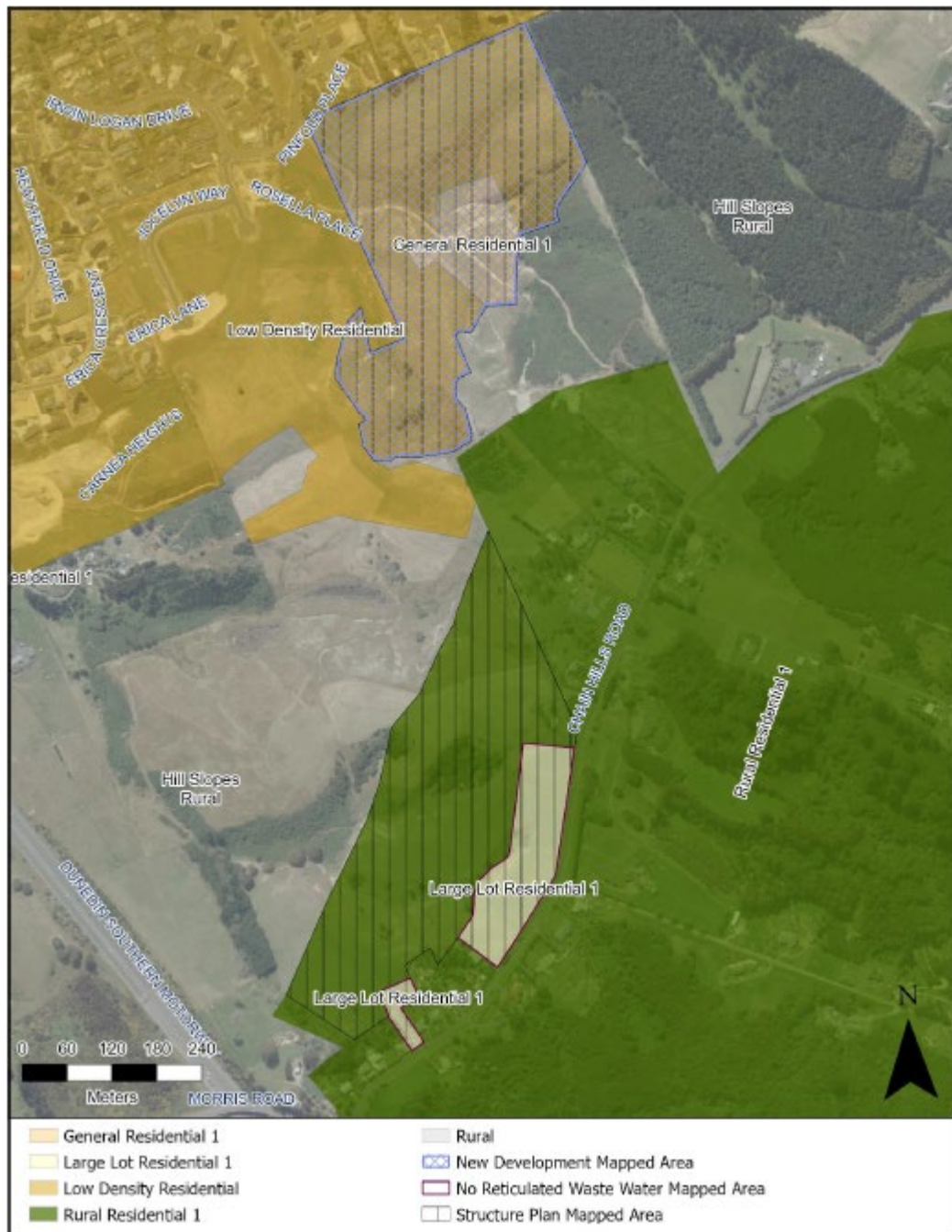
[13] All parties to the proceeding have executed the memorandum requesting the orders. On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought.



P A Steven
Environment Judge



Annexure A – Zoning Map



Annexure B

1 Overlays and mapped areas to be applied

- Area A = Low Density Residential Zone
- Area B = Low Density Residential Zone
- Area C = General Residential 1 Zone
- Area D = Low Density Residential Zone
- "New Development Mapped Area" overlay to cover Areas A, B, C and D
- "Pinfold Place Structure Plan Mapped Area" overlay to cover Areas A, B, C and D

15.8.32 Pinfold Place Structure Plan Mapped Area Rules

15.8.32.1 Application of structure plan mapped area rules

- a. The performance standards in Rule 15.8.32 apply to all parts of the **Pinfold Place structure plan mapped area**, including land zoned General Residential 1 and land zoned Low Density Residential.

15.8.32.2 Land use performance standards

- a. Density
- i. Standard residential activities in the **Pinfold Place structure plan mapped area** must not exceed a density of one residential activity per site (note that Rule 15.8.32.4.a limits the maximum number of sites in the **Pinfold Place structure plan mapped area**), except that:
1. one ancillary residential unit is allowed per site in association with a standard residential activity, provided that the number of habitable rooms across both the primary residential activity and the ancillary residential unit does not exceed:
 1. one habitable room per 100m² of site area in the General Residential 1 Zone; or
 2. one habitable room per 150m² of site area in the Low Density Residential Zone.
- ii. Activities that contravene this performance standard are non-complying activities.
- iii. For the sake of clarity, this performance standard supersedes Rule 15.5.2 and is additional to Rule 15.5.14.

15.8.32.3 Development performance standards

- a. Location
- i. New buildings and structures must not be located within the 'Restricted Development Area - Landscape' or the 'Restricted Development Area - Landscape (3m wide strip)' as shown on Figure 15.8.32A.
- ii. Activities that contravene this performance standard are non-complying activities.

15.8.32.4 Subdivision performance standards

- a. Maximum number of sites
 - i. The maximum number of resultant sites within the **Pinfold Place structure plan mapped area** is as follows:
 - 1. Area A: 9 sites.
 - 2. Area B: 7 sites.
 - 3. Area C: 17 22 sites.
 - 4. Area D: 33 sites.
 - ii. Note: the actual number of sites that can be achieved after meeting the requirements of Rule 15.8.32.5.a and other standards and requirements may be less than these figures.
 - iii. Resultant sites created and used solely for the following purposes are exempt from both clause i and clause ii of this performance standard:
 - 1. scheduled ASBV or QEII covenant;
 - 2. reserve;
 - 3. access;
 - 4. utility; or
 - 5. road.
 - iv. Activities that contravene this performance standard are non-complying activities.
 - v. For the sake of clarity, this performance standard is additional to Rule 15.7.4.

15.8.32.5 Special information requirements

- a. Geotechnical investigation report
 - i. Applications for subdivision activities within the **Pinfold Place structure plan mapped area** must include a geotechnical investigation report by a suitably qualified person (usually a geotechnical engineer), unless such a plan has already been approved as part of an earlier subdivision consent. This assessment must:
 - 1. examine the ground stability over the whole mapped area;
 - 2. determine adequate setbacks from steep slopes and identified areas of instability;
 - 3. identify any “No Build Areas” where development, including earthworks, should be avoided;
 - 4. identify areas suitable for residential development and a suitable building platform for each resultant lot; and
 - 5. include identification and assessment of areas of uncontrolled fill and include measures to ensure the land is sufficiently stable to support development.
 - ii. For the sake of clarity, the standard assessment guidance in Rule 11.5.2.5 still applies.
- b. Landscape enhancement plan

i. Areas to be included

1. Applications for subdivision must include a landscape enhancement plan (prepared by a suitably qualified or experienced ecologist or landscape architect) for the following areas (unless this plan has been provided and accepted through an earlier subdivision consent application):
 1. areas marked 'Restricted Development Area – Landscape' on Figure 15.8.32A;
 2. areas marked 'Restricted Development Area – Landscape (3m wide strip)'; and
 3. any resultant sites located wholly or partially above the 90m contour.

ii. Landscape enhancement plan requirements

1. The landscape enhancement plan must outline how the values listed below will be maintained and enhanced:
 1. when viewed from public places within Mosgiel, including Kinmont Park, Joe Brown Reserve, Brooklands Park, and Peter Johnston Park; the Chain Hills above and surrounding the **Pinfold Place structure plan mapped area** exhibit landscape values which provide a sense of enclosure for Mosgiel and a predominantly rural backdrop and skyline comprising vegetation, forestry and paddocks with any houses visually subservient, acknowledging an existing area of low density residential zoning located to the south-west of the **Pinfold Place structure plan mapped area** extending up some ridges to approximately the 146m contour at the highest point.
2. The landscape enhancement plan must ensure that:
 1. landscaping proposed within the 'Restricted Development Area – Landscape' is capable of reaching a height that will provide landscape mitigation and a vegetated setting and (for lots wholly or partly above the 90m contour) backdrop for future built form in the **Pinfold Place structure plan mapped area** when viewed from public places within Mosgiel;
 2. for lots wholly or partly above the 90m contour, landscaping within the 'Restricted Development Area – Landscape (3m wide strip)' is capable of providing a vegetated backdrop for any future built development when viewed from public places within Mosgiel; and
 3. landscaping required on resultant sites located wholly or partially above the 90m contour must be capable of reaching a height that will provide landscape mitigation for future built form when viewed from public places within Mosgiel, provided as follows:

1. sites within Area A **and Area D** must have a landscaping strip of at least 2m width along the entire length of the northern and western boundaries of the sites (except that a gap may be left in the landscaping strip for the purposes of obtaining access to the site, as necessary); and
 2. sites within Area B must have a landscaping strip of at least 2m width along the entire length of the northern boundary of the sites (except that a gap may be left in the landscaping strip for the purposes of obtaining access to the site, as necessary).
3. The landscape enhancement plan must include the following:
1. an outline of the objectives of the enhancement plan;
 2. a description of the area to be enhanced and protected, including description of vegetation values present that should remain, presence of any problematic weed species (and how these will be managed), animal pest control and fencing;
 3. a schedule of ecologically appropriate species to be planted, to provide landscape mitigation to built development;
 4. a plan depicting location, species density and staging of planting;
 5. any site preparation required; and
 6. measures that will be used to protect, monitor and maintain plantings, including replacement of dead plants.

iii. Implementation

1. Any planting required within the 'Restricted Development Area – Landscape' must be undertaken within five years of the issue of titles for the subdivision. The planting will be the responsibility of the property owner. The subdivision must include an appropriate legal mechanism in relation to the 'Restricted Development Area – Landscape' to ensure the planting required by Rule 15.8.32.5.b.i.1 is undertaken by the property owner within five years of the issue of title and maintained in perpetuity.
2. Any planting required within the 'Restricted Development Area – Landscape (3m wide strip)' and any planting required on resultant sites located wholly or partially above the 90m contour must be undertaken within the first growing season (1st May to 30th September) following construction of a dwelling on the resultant site. The subdivision must include an appropriate legal mechanism in relation to the 'Restricted Development Area – Landscape (3m wide strip)' and any planting required on resultant sites located wholly or partially above the 90m contour, to ensure the planting required by Rule 15.8.32.5.b.i.1 is undertaken by the property owner within the first growing

season (1st May to 30th September) following construction of a dwelling on the resultant site and maintained in perpetuity.

15.8.32.6 Assessment guidance

- a. In addition to assessment guidance for subdivision activities in Rules 15.11.4 and 15.11.5 the following guidance applies.

General assessment guidance:

- b. In assessing effects related to risk from natural hazards, Council will consider the geotechnical investigation report submitted with the application (as required by Rule 15.8.32.5.a).
- c. In assessing effects on landscape values, Council will consider the landscape plan submitted with the application (as required by Rule 15.8.32.5.b).

Conditions that may be imposed include:

- d. A requirement that 'no build' areas and building platforms identified by the geotechnical investigation report required by Rule 15.8.32.5.a are registered on the records of title by way of consent notice.
- e. A requirement for legal instruments and bonds to ensure the planting required by Rule 15.8.32.5.b is undertaken and maintained in perpetuity, in accordance with the plan submitted under Rule 15.8.32.5.b, and to establish the legal responsibilities for the ongoing maintenance of the planted areas.
- f. A requirement that land within the 'Restricted Development Area - Landscape' and 'Restricted Development Area – Landscape (3m wide strip)' on Figure 15.8.32A must be held in the same title or titles as a residential land use within the **Pinfold Place structure plan mapped area**.

Figure 15.8.32A: Pinfold Place structure plan

