BEFORE THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY

ENV-2018-CHC-

IN THE MATTER	Of an appeal pursuant to clause 14 of the First Schedule of the Resource Management Act 1991
BETWEEN	**CRAIG HORNE**
	First Appellant
	JOHN BUCHAN
	Second Appellant
	K J TAYLOR
	Third Appellant
	BLUE GRASS LIMITED
	Fourth Appellant
	SADDLE VIEWS ESTATE LIMITED
	Fifth Appellant
AND	**DUNEDIN CITY COUNCIL**
	Respondent

NOTICE OF APPEAL

GALLAWAY COOK ALLAN
LAWYERS
DUNEDIN

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To: The Registrar

Environment Court

Christchurch Registry

1. Craig Horne, John Buchan, KJ Taylor and Saddle Views Estate Limited (**the Appellants**) appeal against a decision of the Dunedin City Council on the following:

   (a) Decision 3.8.3.8 of the Urban Land Supply Decisions Report; and

   (b) Decision 3.3.5 of the Rural Residential Decisions Report;

   (c) Decision 3.9 of the Manawhenua Decisions Report;

   (d) Decision 3.11.4.7 of the Natural Environment Report;

   Collectively referred to as the "2GP Decisions"

2. The Appellants filed separate submissions on the Dunedin City Council Second Generation Plan (**2GP**) seeking rezoning of adjoining areas between Riccarton Road East, Main South Road-SH1 and Hollands Drive, Mosgiel. The Appellants made the following submissions.

   (a) Craig Horne (OS368);

   (b) John Buchan (OS610);

   (c) K J Taylor (OS660);

   (d) Blue Grass Limited (OS693)

   (e) Saddle Views Estate Limited (OS813).

3. The Appellants are not trade competitors for the purposes of section 308D of the Resource Management Act 1991.

4. The Appellants received notice of the decision on 7 November 2018.

5. The decision was made by Dunedin City Council.

6. The decisions the Appellants are appealing is:

   (a) The Urban Land Supply Hearing Panel Report, in particular, section 3.8.3.8 where the Hearings Panel declined to rezone adjoining areas of land between Riccarton Road East, Main South Road-SH1 and Hollands Drive, Mosgiel to Rural Residential 1, Rural Residential 2 and Large Lot Residential 1;

   (b) The Rural Residential Hearing Panel Report, in particular, section 3.3.5, where the Hearing Panel rejected the Appellants' relief to amend the density and minimum site size provisions in the Rural Residential 2 zone.

7. The reasons for our appeal are:

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

   (b) The application site is within a medium-growth urban area.

   (c) The 2GP Decision fails to provide sufficient urban housing development capacity.

   (d) The 2GP Decision does not provide for choices that will meet the needs of people and communities and future generations for a range of dwelling types and locations.

   (e) The 2GP Decision gave insufficient weight on market demand, particularly with respect to demand for new development capacity in on land proximate and readily available to town centres and facilities.

   (f) The 2GP Decision was wrong to find that rezoning the subject sites as sought in our submissions would not contribute to the provision of land supply for urban Dunedin.

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

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

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

(j) The 2GP Decision is inconsistent in its treatment and reliance on urban land supply demand projections and speculates wrongly about the behaviour of the market and availability of development opportunities to satisfy demand commensurate with recent Mosgiel supply within Dunedin City.

(k) The 2GP Decision places disproportionate weight on infrastructure provision to determine the appropriateness of a site for rezoning. This fails to recognise the matters of national significance identified in the NPSUDC.

(l) The 2GP Decisions places too much weight on resolving infrastructure constraints at the time of re-zoning, and failed to consider the evidence that infrastructure constraints should not preclude rezoning, as development could not proceed until those matters were overcome. Infrastructure matters can appropriately dealt with at the resource consent stage.

(m) The 2GP Decisions place too much weight on the maintenance of rural productivity in the long-term, and in doing so, created an artificial assumption about what the future environment would look like and whether this would be appropriate given the context of the Land.

(n) Maintaining the land as Rural Coastal is an inefficient use of the land resource.

(o) The SNL boundary has been incorrectly positioned and should be relocated further uphill.

(p) The 2GP Decisions place too much weight on the Significant Natural Landscape classification on the north-west face of Saddle Hill. The 2GP Decision fails to give sufficient weight to the evidence that SNL does not require protection and are not afforded any particular status within the Act. This is in comparison to Outstanding Natural Landscapes and Features which are given specific recognition within 6(b) of the Act.

(q) The 2GP Decisions did not give sufficient weight to the Landscape Assessment of Mike Moore who held that development at 4A Braeside will integrate readily with the landscape pattern in this setting and is an area suited to rural-residential development.

(r) The 2GP Decisions do not give sufficient weight to the comments from the Environment Court that noted that development on the lower slopes of the north-west face of Saddle Hill might be appropriate for denser development under a rural residential or urban zoning.

(s) The 2GP decision places too much weight on the existence of the existence of a Hazard 3 (alluvial fan) overlay. The 2GP Decision overstates the potential risk from natural hazards.

(t) The 2GP Decisions fails to consider that the proposed zoning package proposed by the Appellants carefully weighs landscape, geotechnical and housing demand factors in the relief that it sought.

(u) The site is suitable for residential zoning pursuant to Policy 2.6.3.1.

(v) The 2GP Decision does not achieve sustainable management

8. We seek the following relief:

(a) Rezoning of the Appellants land as shown in the attached map at **Appendix 1.** To avoid any doubt, this includes:

(i) 5 Main South Road be zoned Large Lot Residential 1;

(ii) 2 Braeside be zoned Large Lot Residential 1;

(iii) 103 Riccarton Road East be zoned Rural Residential at a minimum lot size of 1 hectare;

(iv) 4A Braeside be zoned Rural Residential at a minimum lot size of 1 hectare;

(v) 31 Main South Road and 101 Riccarton Road East be zoned Rural Residential at a minimum lot size of 2 hectare.

(vi) Remove Significant Natural Landscape Overlay from all land north of the boundary identified within **Appendix B**.

(vii) Remove all hazard overlays land north of the proposed boundary of the Significant Natural Landscape identified within **Appendix B**.

(viii) Remove the Wāhi Tūpuna Mapped Area from the area adjoining and contained between Riccarton Road East, Main South Road-SH1 and Hollands Drive.

(ix) Amend Rule 17.5.2.1 so that the minimum site size to establish a new residential activity in the Rural Residential 2 Zone is 1ha, and to remove the restriction of only one residential activity per site.

(b) All other relief required to give effect to the Appellants original submissions.

9. I attach the following documents to this notice:

(a) A copy of the Appellants original submissions (OS368, 610, 660, 693 and 813);

(b) A copy of the relevant Sections of the Urban Land Supply and Rural Residential Decisions Reports; and

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

Phil Page

Solicitor for the Appellant

DATED this 19th day of December 2018.

Address for service

for Appellant: Gallaway Cook Allan
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Contact Person: Bridget Irving / Simon Peirce

Advice to Recipients of Copy of Notice

How to Become a Party to Proceedings

You may be a party to the appeal if you made a submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court, and serve copies on the other parties, within 15 working days after the period for lodging a notice of appeal ends. Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

How to Obtain Copies of Documents Relating to Appeal

The copy of this notice served on you does not attach a copy of the relevant decision. These documents may be obtained, on request, from the Appellant.

Advice

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

Table of Submitters to be serves with this Appeal:

Contact	Address	Email
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	9024 New Zealand	
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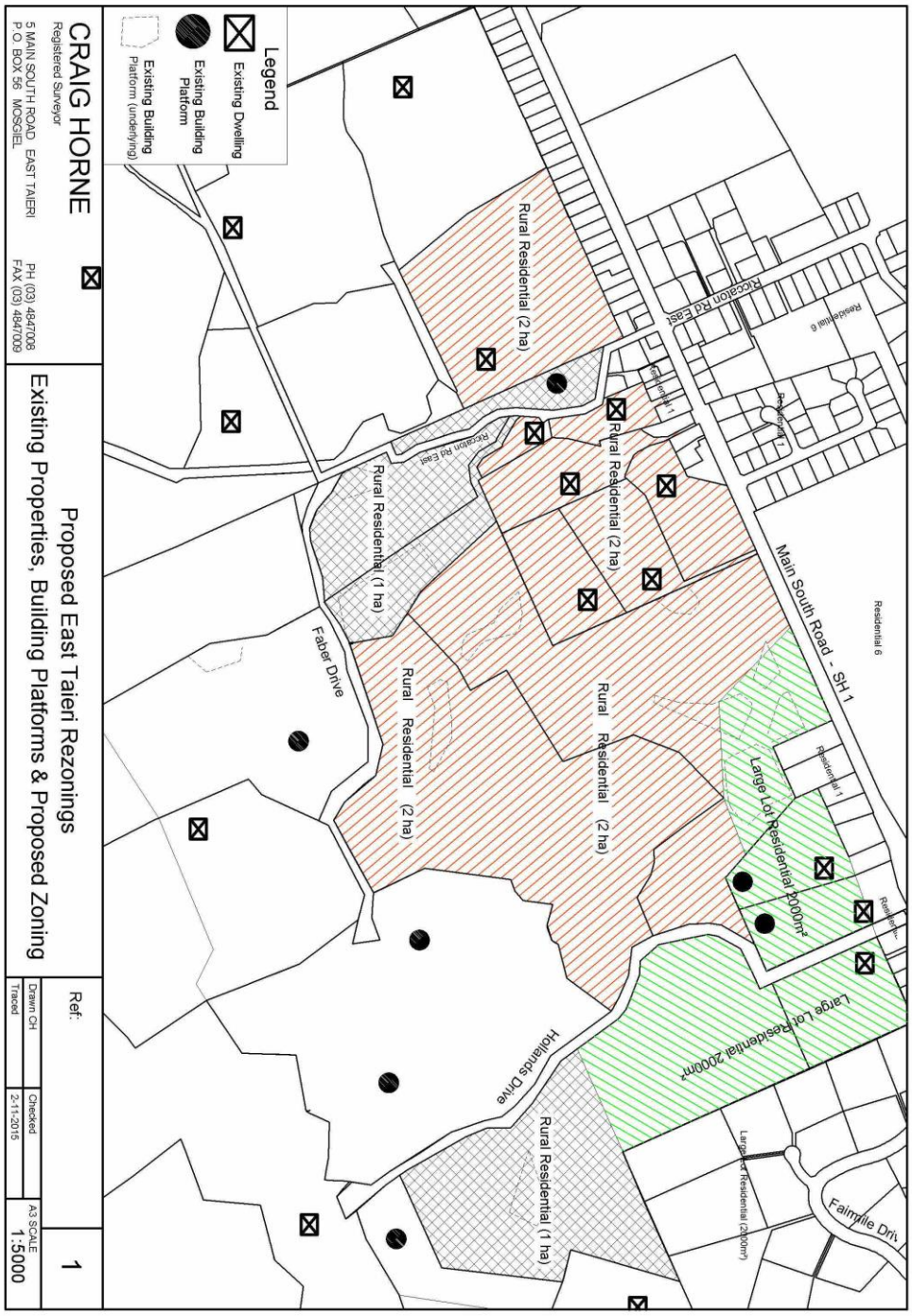
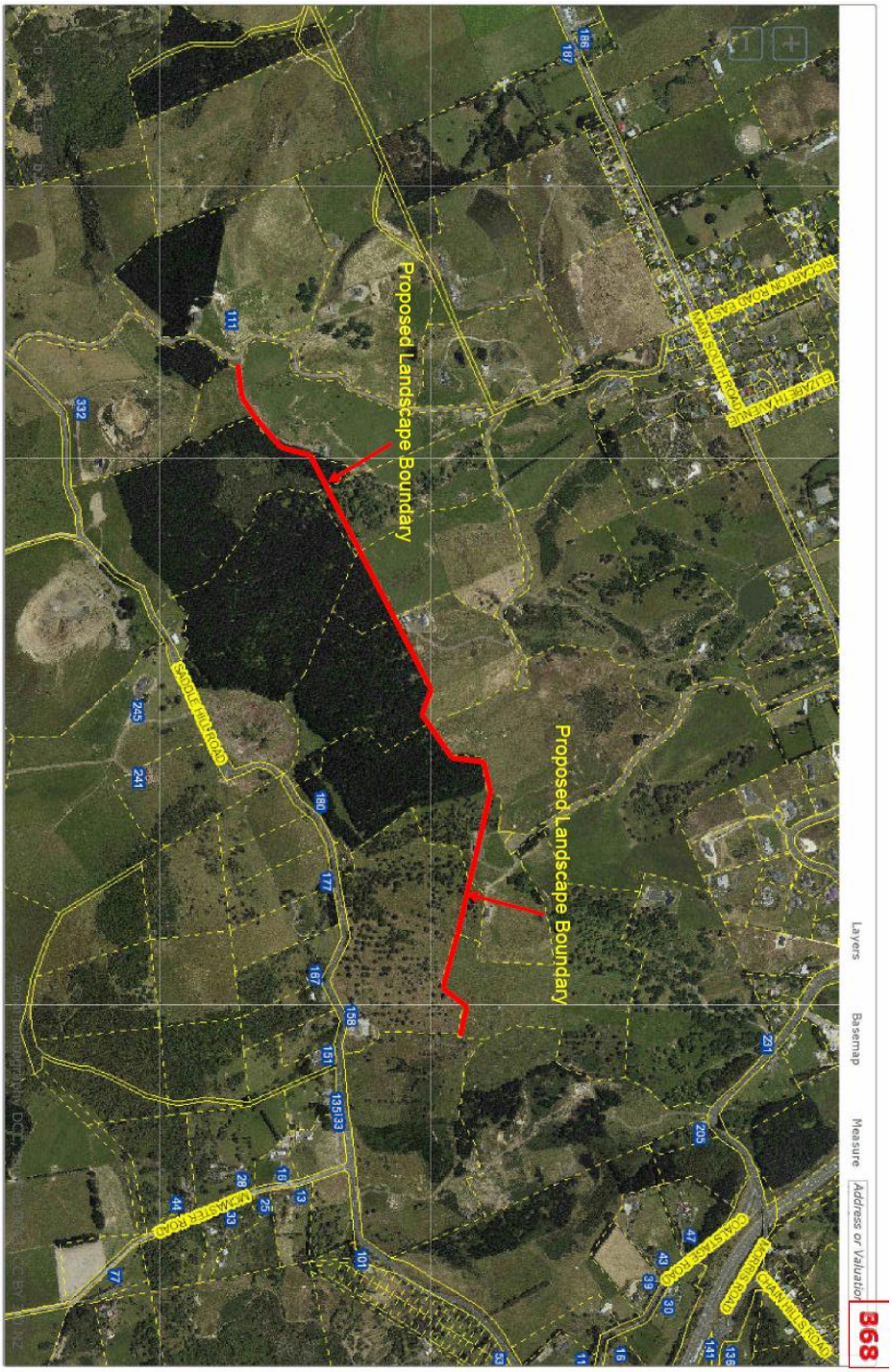
Peter Macmillan	177 Saddle Hill Road RD 1 Dunedin 9076 New Zealand	peter.macmillan@acmetech.co.nz

Appendix 1.


Legend
Existing Dwelling
Existing Building Platform
Existing Building Platform (underlying)
Rural Residential (2 ha)
Rural Residential (1 ha)
Rural Residential (2 ha)
Rural Residential (2 ha)
Rural Residential (2 ha)
Rural Residential (1 ha)
Large Lot Residential 2000m²
Large Lot Residential 2000m²
Main South Road - SH 1
Roccalon Rd East
Roccalon Rd East
Faber Drive
Hollands Drive
Fairmile Drive
Residential 6
Residential 1
Residential 1
Residential 1
Large Lot Residential (2000m²)
CRAIG HORNE
Registered Surveyor
5 MAIN SOUTH ROAD EAST TAIERI
P.O. BOX 56 MOSGIEL
PH (03) 4847008
FAX (03) 4847009
Proposed East Taieri Rezonings
Existing Properties, Building Platforms & Proposed Zoning
Ref:
1
Drawn CH
Traced
Checked
2-11-2015
A3 SCALE
1:5000

Appendix B


Proposed Landscape Boundary
Proposed Landscape Boundary
SADDLEHILL ROAD
Layers
Basemap
Measure
Address or Valuation