

**BEFORE THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY**

ENV-CHC-2018-

IN THE MATTER

Of an appeal pursuant to clause 14
of the First Schedule of the
Resource Management Act 1991

BETWEEN

**BALMORAL DEVELOPMENTS
OUTRAM LIMITED**

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. Balmoral Developments Outram Limited ("Balmoral") appeals against a decision of the Dunedin City Council on the following:
 - (a) Decision 3.8.4.2.3 to refuse to zone 94 Holyhead Street Township and Settlement zone (The 2GP Decision).
2. Balmoral made a submission regarding the zoning of 94 Holyhead Street Outram (OS741).
3. Balmoral is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. Balmoral received notice of the decision on 7 November 2018.
5. The 2GP Decision was made by Dunedin City Council.
6. The 2GP Decision Balmoral is appealing is:
 - (a) The Urban Land Supply Hearings Panel Report, in particular section 3.8.4.2.3 to refuse to zone 94 Holyhead Street Township and Settlement zone.
7. The reasons for Balmoral's 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 flat land on the Taieri Plain.
- (f) The 2GP Decision was wrong to find that rezoning the subject site would not contribute to the provision of land supply for urban Dunedin. The only direct evidence given was to the opposite, namely that land supply in Outram would assist to meet a shortfall in supply at Mosgiel.
- (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. The subject site has water supply and storm water services available, and can be self-serviced for waste water immediately.
- (h) The 2GP Decision was wrong to find that on site waste water treatment might make future demand for municipal services more acute or less economic.
- (i) The site is not flood-prone to the extent that Hazard 2 (flood) mapping might indicate. Nor does such mapping (common to the whole of Outram) make Township and Settlement zoning inappropriate. The site is protected by the Otago Regional Council's flood protection scheme.
- (j) 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.
- (k) 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.

- (l) The 2GP Decision is inconsistent in its treatment and reliance on demand projections and speculates as to the behaviour of the market and availability of development opportunities commensurate with recent Mosgiel Supply within Dunedin City.
- (m) 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.
- (n) The loss of potential future rural productivity on the site's high class soils will be insignificant. At most the site is suitable for domestic food production in domestic gardens.
- (o) Maintaining the land in rural residential use is an inefficient use of the land resource.
- (p) There are no meaningful rural activities that will be displaced by Township and Settlement zoning.
- (q) The site is suitable for residential zoning pursuant to Policy 2.6.3.1.
- (r) The 2GP Decision does not achieve sustainable management.

8. Balmoral seeks the following relief:

- (a) Zone 94 Holyhead Street Township and Settlement zone

9. The following documents are attached to this notice:

- (a) A copy of my original submission;
- (b) A copy of the relevant part of Urban Land Supply Hearings Panel Report; and

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



Phil Page

Solicitor for the Appellant

DATED this 19 December 2019

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Advice to Recipients of Copy of Notice

How to Become a Party to Proceedings

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

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

How to Obtain Copies of Documents Relating to Appeal

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

Advice

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

List of names of persons to be served with this notice

Name	Address	Email Address
Dunedin City Council	PO Box 5045, Dunedin 9054	2gpappeals@dcc.govt.nz