

**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

**DAISY LINK GARDEN CENTRES
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. Daisy Link Garden Centres Limited (Daisy Link) appeals against a decision of the Council on Urban Land Supply.
 - (a) Decision 3.8.3.7 27 Inglis Street and Part 58 Ayr Street Mosgiel (the 2GP Decision)
2. Daisy Link made a submission (OS 1047) regarding the seeking to zone 27 Inglis Street and Part 58 Ayr Street Mosgiel ("the Site") General Residential 1.
3. Daisy Link is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. Daisy Link received notice of the decision on 7 November 2018.
5. The 2GP Decision was made by Dunedin City Council.
6. The 2GP Decision Daisy Link is appealing is:
 - (a) To refuse to zone the Site General Residential 1 as sought by OS 1047.
7. The reasons for Daisy Link'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 give effect to the NPSUDC in particular:
 - (d) The 2GP Decision fails to provide sufficient urban housing development capacity.

- (e) 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.
- (f) Some of the development capacity provided in the 2GP Decision is not feasible. As a result, the 2GP Decision overstates the urban housing development capacity made available by the 2GP.
- (g) The 2GP Decision relies on capacity being provided on land that is not available for development, such as the Balmacewen and St Clair Golf Courses.
- (h) The 2GP Decision relies on development yields from the land identified for development that are significantly higher than what is feasible.
- (i) The 2GP Decision relies on supply being available from Commercial land without any evidence as to the supply available from this source, or the likelihood of it being taken up. Further no account seems to have been given to the loss of commercial space if residential activities were to intensify in the commercial zones.
- (j) Inadequate consideration has been given to why existing residential zoned land within the urban area has not been developed and whether those reasons are likely to persist.
- (k) Inadequate consideration has been given to whether some existing housing stock will continue to remain available. This is particularly relevant in relation to South Dunedin.
- (l) The 2GP Decision places insufficient weight on market demand, particularly with respect to demand for new development capacity in Mosgiel.
- (m) 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.

- (n) 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.
- (o) 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.
- (p) 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.
- (q) The 2GP Decision places disproportionate weight on infrastructure provision to determine the appropriateness of a site for rezoning. This once again places an overarching emphasis on Council efficiency rather than the other obligations such as providing choice. This fails to recognise the matters of national significance identified in the NPSUDC. The 2GP Decision also placed insufficient weight on the evidence that funding mechanisms for infrastructure would be reviewed in light of zoning decisions.
- (r) The Site can be readily provided with services infrastructure through the provision of new infrastructure installed at the time subdivision.
- (s) The Site is not currently serviced because the Council operates an existing policy not to extend services to land not currently zoned for urban development. Therefore the lack of existing services cannot be a reason to decline to zone land for urban purposes.

- (t) The Site is suitable for residential zoning pursuant to Policy 2.6.3.1.
 - (u) The 2GP Decision does not achieve sustainable management.
- 8. Daisy Link seeks the following relief:
 - (a) Rezone the Site General Residential 1.
 - (b) In the alternative rezone the site using a method that enables development in accordance with General Residential 1 standards once waste water services are available to the subdivision.
 - (c) Any further consequential relief to give effect to the above;
 - (d) Costs of and incidental to this appeal
- 9. The following documents are attached to this notice:
 - (a) A copy of Daisy Link's original submission.
 - (b) A copy of the relevant parts of the 2GP Decision; 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

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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
Phillip Lyall	20 Shaw Street Mosgiel 9024 New Zealand	pcllyall@xtra.co.nz
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Catherine Thompson	22 Shaw Street Mosgiel 9024 New Zealand	
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