

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-214

Under	the Resource Management Act 1991 (RMA)
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	Parata Appellant
And	Dunedin City Council Respondent

Consent Memorandum

8 August 2019

Respondent's solicitors:

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May it please the Court

- 1 Anthony Parata's appeal as it relates to intensification of residential use and the associated planning for infrastructure has been subject to two withdrawals that have reduced the areas covered by the appeal. These withdrawals are dated 4 April 2019 and 16 May 2019 and have left the areas noted below as remaining subject to the appeal:

6. This memorandum withdraws the relief sought as it relates all residential and rural residential zoned sites apart for those specified in paragraph 5.
7. There is no issue as to costs from Dunedin City Council.
8. For clarity the final paragraph outlining relief sought in the notice of appeal should be amended to now read:

All new zoning and intensification of residential development by zoning that is likely to impact on services should only proceed when supported by comprehensive engineering and funding studies so that infrastructure within and related to the new areas is not compromised. This appeal only relates to the following sites:

- (a) sites zoned Residential 1 in the operative plan that are zoned General Residential 2 in the 2GP and are subject to an Infrastructure Constraint Mapped Area;
- (b) sites zoned Rural in the operative plan that are zone Rural Residential 1 or 2 in the 2GP;
and
 - (i) have additional development potential;
and
 - (ii) are fronted by an unsealed road or are with 500m from a DCC water supply

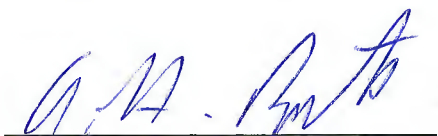
- 2 This consent memorandum relates to these remaining areas and the parties have agreed to amending some provisions that resolve this aspect of Anthony Parata's appeal. Aspects of the appeal that relate to the Manawhenua provisions are not resolved by this consent memorandum.
- 3 The changes agreed to by the parties will be explained in affidavit of Emma Christmas, a senior planner at Dunedin City Council, included with the Group 1 mediation report. These changes are shown in Appendix A and relate to:
 - (a) Amending Policy 9.2.1.6 which relates to development in an infrastructure constrained mapped area. The amended wording is intended to capture cumulative effects of development on infrastructure.

- (b) Amending Assessment Guidance 9.5.3.3 (assessment of contravention of density performance standard) to reflect the amendments to Policy 9.2.1.6 and to provide additional assessment guidance regarding cumulative effects.
- (c) Amending Assessment Guidance 9.6.2.4 (assessment of all subdivision activities in relation to effects on efficiency and affordability of infrastructure) to clarify that wastewater connections are only required in serviced areas.
- (d) Inserting a new "Note to plan user" after Rule 17.3.5 (subdivision activity status table, rural residential zones) to explain that reticulated water supply is not generally supplied to rural residential sites.
- (e) Amending Assessment Guidance 6.11.2.1 (assessment of all restricted discretionary activities linked to section 6.11 and that have 'effects on the efficiency of the transport network' as a matter of discretion) to include consideration of dust from unsealed roads.

Directions sought

- 4 The parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the RMA, including Part 2 and request:
 - (a) That the amendments shown in strikethrough and underline in **Appendix A** are made; and
 - (b) That the appeal be otherwise dismissed.
- 5 The parties agree that costs should lie where they fall and accordingly no order of costs is sought.

Dated this 8th day of August 2019



A Parata
Appellant



Michael Garbett/Rachel Brooking
Counsel for the Respondent



Craig Horne
Craig Horne Surveyors Limited
Section 274 Party



~~Shelly Chadwick~~ Philip Pannett
Counsel for Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou
Section 274 Party



Craig Werner
The Preservation Coalition Trust
Section 274 Party

Appendix A

Policy 9.2.1.6

Require Only allow development and subdivision in an infrastructure constraint mapped area ~~to be at a~~ above the permitted density where it will which does not compromise the current or planned capacity of the public wastewater infrastructure or compromise the ability of the public wastewater infrastructure to service any activities permitted within the zone.

Assessment guidance 9.5.3.3 (assessment of contravention of density performance standard)

Relevant objectives and policies:

- i. Objective 9.2.1
- ii. Development in an **infrastructure constraint mapped area** above the permitted density, ~~is at a density which does~~ will not compromise the current or planned capacity of the public wastewater infrastructure, or compromise the ability of the public wastewater infrastructure to service any activities permitted within the zone (Policy 9.2.1.6).

General assessment guidance:

- iii. In determining whether Policy 9.2.1.6 is achieved, Council will consider the cumulative effects of the proposed development together with existing development and permitted development that is likely to arise in the future.

Assessment guidance 9.6.2.4 (assessment of all subdivision activities in relation to effects on efficiency and affordability of infrastructure)

Amend assessment guidance:

Conditions that may be imposed include:

- viii. Within an area serviced by DCC for wastewater, a A requirement for wastewater connections.

Note to Plan User after Rule 17.3.5:

Add new Note to Plan User:

Note 17.3.5B – General advice

DCC does not generally provide reticulated water supply to sites zoned rural residential and a connection should not be presumed.

Assessment guidance 6.11.2.1 (assessment of all restricted discretionary activities linked to section 6.11 and that have 'effects on the efficiency of the transport network' as a matter of discretion)

Add new assessment guidance:

General assessment guidance:

- vi. ...
- vii. For subdivision activities on sites adjoining unsealed rural roads, Council will consider the effectiveness of any proposed mitigation measures to reduce the risk of complaints of dust from the road.

Potential circumstances that may support a consent application include:

- ~~vii.~~ viii. ...
- ix. For subdivision activities adjoining roads that are unsealed, any necessary conditions to reduce the risk of complaints of dust from unsealed roads, for example conditions on the location of building platforms, screening of the road frontage or sealing of roads.