

In the Environment Court of New Zealand
Christchurch Registry

I Te Kōti Taiao O Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-260

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	Ben Ponne Appellant
And	Dunedin City Council Respondent

Consent Memorandum

31 May 2021

**Concerning: Group 1, Rural Strategic Topic
DCC Reference number 151**

Respondent's Solicitors
Michael Garbett | Georgia Cassidy
Anderson Lloyd
Level 10, Otago House
477 Moray Place, Dunedin 9016
Private Bag 1959, Dunedin 9054
DX Box YX10107 Dunedin
p: +64 3 477 3973
michael.garbett@al.nz | georgia.cassidy@al.nz

**anderson
lloyd.**

May it please the Court

- 1 This consent memorandum relates to Ben Ponne's appeal on zoning and density rules under the proposed Second Generation Dunedin City District Plan (**2GP** or **Plan**) in relation to 58 and 73 Reservoir Road.
- 2 The appeal sought to rezone the land at 58 and 73 Reservoir Rd from Coastal Rural to Rural Residential 2, or to alternatively add a new rule in the Coastal Rural Zone that would enable a residential dwelling to be established on an existing undersized site (DCC Reference number 151).
- 3 Otago Regional Council is a section 274 party to this appeal.
- 4 The parties have agreed the following amendments that are shown in **Appendix A**:
 - (a) Rezoning of 58 and 73 Reservoir Road from Coastal Rural Zone to Rural Residential 2 Zone;
 - (b) New 'landscape building platform mapped area' over 73 Reservoir Road, alongside new landscape building platform mapped area performance standards to manage effects on landscape; and
 - (c) Consequential amendments to the Plan, including an amendment to the definition of 'landscape building platform', so that new dwellings are provided for as a controlled activity in a significant natural landscape, where referred to in a landscape building platform mapped area performance standard.
- 5 This is a full settlement of the appeal.
- 6 The rationale for the changes, and the assessment of the changes in terms of section 32, is explained in an affidavit of Katie Emma Sunley James, a policy planner at Dunedin City Council.

Directions sought

- 7 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 as well as the amendments to the 2GP map shown in **Appendix A** are made; and

(b) That the part of the appeal by Ben Ponne (DCC Reference number 151) is resolved and that the appeal is otherwise dismissed.

8 The parties agree that costs should lie where they fall and accordingly no order of costs is sought.

Dated this 31st day of May 2021



Bridget Irving / Derek McLachlan
Counsel for the Appellant



Michael Garbett / Georgia Cassidy
Counsel for the Respondent



Alastair Logan
Counsel for Otago Regional Council
Section 274 Party

Appendix A

Amendments

Amend 2GP planning map to change the zoning of 58 and 73 Reservoir Road (shown as the 'area of change' in Figure 1) from Coastal Rural to Rural Residential 2, and to apply the landscape building platform mapped area over 73 Reservoir Road, as shown in Figure 1.

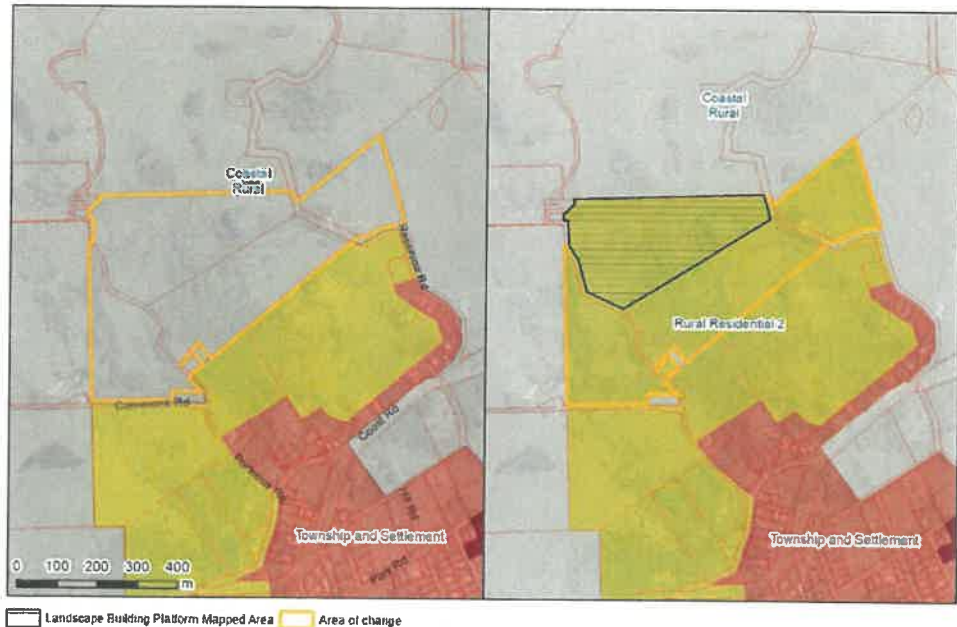


Figure 1: Map showing the current and agreed zoning of 58 and 73 Reservoir Road

Add new 'landscape building platform mapped area' performance standards in Section 17 as shown below:

Rule 17.X Landscape Building Platform Mapped Area Performance Standards

17.X.1

- a. In addition to the performance standards in 17.5, 17.6 and 17.7 and any relevant overlay zones or mapped areas, activities in a landscape building platform mapped area must meet the area-specific performance standards below. Where a performance standard in this section specifically provides an exemption or alternative performance standard to a standard in 17.5, 17.6 or 17.7, the standard in this section supersedes that standard.

17.X.X Porteous Road Landscape Building Platform Mapped Area Performance Standards

1. All buildings must be located within the area marked A (landscape building platform) on the **Porteous Road landscape building platform mapped area** (see Figure 17.X.X).
2. Driveways must be provided from Porteous Road (marked B in Figure 17.X.X).
3. Activities that contravene this performance standard are non-complying activities.

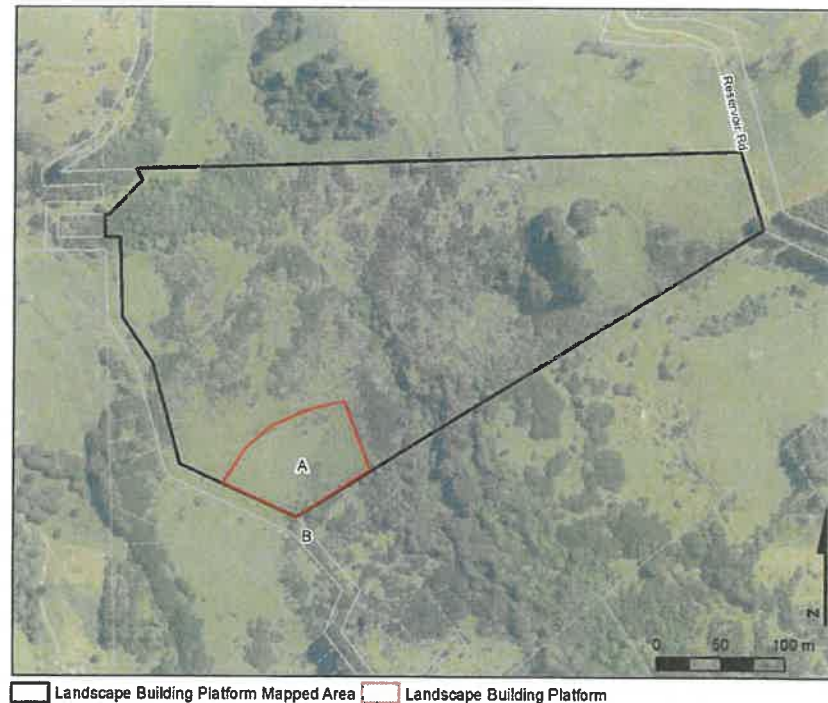


Figure 17.X.X: Porteous Road Landscape Building Platform Plan Mapped Area

Note 17.X.XA Other Relevant District Plan Provisions

1. As the **Porteous Road landscape building platform mapped area** is within a **Significant Natural Landscape Overlay Zone**, additional rules apply. Resource consent for a controlled activity is required for new buildings greater than 60m² footprint on a landscape building platform (Rule 17.3.4.3.c). In addition to the performance standards for development activities in rural residential zones, activities must also comply with Rule 10.3.5 Number and Location of Permitted Buildings and Rule 10.3.6 Reflectivity.

Consequential Amendments

Amend definition of landscape building platform:

Landscape Building Platform

For the purposes of rules ~~46.3.4.3 and 17.3.4.3~~ in this plan, a landscape building platform is an approved building site that ~~has~~ is:

~~a. been~~ registered on the title by way of a consent notice as part of an approved subdivision resource consent process, or

b. referred to in a landscape building platform mapped area performance standard.

Insert the following into Section 17 (Rural Residential zones) development activity status table:

17.3.4.1.x **Landscape building platform mapped area** performance standards (where relevant)

Amend Rule 17.12.6 Assessment of non-complying performance standard contraventions, as follows:

<u>x</u>	<u>Landscape building platform mapped area performance standards</u>	<u>Relevant objectives and policies (priority considerations):</u> <u>a. Objective 10.2.5</u> <u>b. Any adverse effects on landscape values, as identified in Appendix A3, are avoided or, if avoidance is not practicable:</u> <u>1. no more than minor, or</u> <u>2. where there are no practicable alternative locations, adequately mitigated (Policy 10.2.5.9).</u>
----------	--	--

Make any changes to plan numbering required.