

In the Environment Court of New Zealand
Christchurch Registry

I Mua I Te Kōti Taiao o Aotearoa
Ōtautahi Rohe

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 **Port Otago Limited**
ENV-2018-CHC-246

Appellant

University of Otago
ENV-2018-CHC-270

Appellant

And **Dunedin City Council**

Respondent

Consent memorandum – Commercial – Site Specific and Harbourside Edge Zone

26 March 2021

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 | f + 64 3 477 3184
michael.garbett@al.nz | georgia.cassidy@al.nz

**anderson
lloyd.**

May it please the Court

- 1 This consent memorandum relates to the Port Otago Limited appeal regarding the site specific Commercial Zoning, and the University of Otago appeal regarding the Harbourside Edge provisions of the proposed Dunedin City Second Generation District Plan (**2GP**).
- 2 The Port Otago Limited appeal sought to:
 - (a) Rezone the land (formerly) occupied by warehouses on Fryatt Street on the northern side of Steamer Basin to Harbourside Zone.
- 3 The University of Otago appeal sought that:
 - (a) Campus activity is permitted in the Harbourside Edge Zone in Rule 18.3.4.
- 4 University of Otago, Otago Regional Council and Kati Huirapa Rūnaka Ki Puketeraki and Te Runanga o Ōtākou are section 274 parties to the Port Otago appeal.
- 5 Port Otago Limited is a section 274 party to the University of Otago appeal.
- 6 These two appeals have been grouped together because they deal with the same site and 2GP provisions.
- 7 The parties have agreed to the changes to the Plan set out in **Appendix A and B**.
- 8 The rationale for these changes, and the assessments in terms of section 32 of the RMA, is explained in an affidavit of Emma Christmas, a policy planner at Dunedin City Council.
- 9 The making of orders is contingent on settlement/determination of other appeals challenging the strategic framework for considering rezoning areas to a commercial and mixed zone, as addressed in the affidavit of Emma Christmas.
- 10 As explained in the affidavit of Emma Christmas, there are no other appeals on the provisions being amended through this consent order.
- 11 The agreed changes shown in **Appendix A**:
 - (a) Add a new Policy 18.2.2.X;
 - (b) Amend Policy 18.2.1.15;

- (c) Amend the activity status table 18.3.4 to make of a number of commercial activities and Campus activity in the Campus mapped area of the Harbourside Edge Zone restricted discretionary;
 - (d) Amend the Harbourside Edge Zone Standards, Rule 18.6.17.2;
 - (e) Add new assessment guidance for these activities;
 - (f) Extend the Harbourside Edge Zone, and apply a Campus mapped area and extend the Harbourside Edge walkway mapped area over the rezoned area; and.
 - (g) Make consequential amendments to the Section 18 (18.1.1.6 and Objective 18.2.1 to refer to the extended area.
- 12 It is agreed to amend the planning maps as shown in **Appendix B**.
- 13 There is also a supporting affidavit of Dr Anna Louise Johnson, the City Development Manager at Dunedin City Council, that considers alignment with, and impact of, any changes on the strategic directions objectives and policies and the drafting of the proposed amendments to ensure alignment with the 2GP Style Guide. Dr Johnson considers that the amendments have been drafted to be in keeping with the 2GP Style Guide.

Orders sought

- 14 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) The mapping changes to the 2GP are made as shown in **Appendix B**; and
 - (c) That the remaining parts of the University of Otago appeal remain to be dealt with at a later date.
- 15 This agreement fully resolves this appeal of Port Otago Limited.
- 16 The parties agree that costs should lie where they fall and accordingly no order of costs is sought.

Dated this 26 day of March 2021



Len Andersen QC
Port Otago Limited
Counsel for the Appellant and s274 Party



Michael Garbett/Georgia Cassidy
Counsel for the Respondent

Phil Page/Derek McLachlan
University of Otago
Appellant and Section 274 Party

Nick Donnelly
Otago Regional Council
Section 274 Party



Michael Bathgate
Kati Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou
Section 274 Party

Dated this 26 day of March 2021

Len Andersen QC
Port Otago Limited
Counsel for the Appellant and s274 Party

Michael Garbett/Georgia Cassidy
Counsel for the Respondent



Kevin Wood
University of Otago
Appellant and Section 274 Party

Nick Donnelly
Otago Regional Council
Section 274 Party

Michael Bathgate
Kati Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou
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Port Otago Limited
Counsel for the Appellant and s274 Party

Michael Garbett/Georgia Cassidy
Counsel for the Respondent

Phil Page/Derek McLachlan
University of Otago
Appellant and Section 274 Party



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Otago Regional Council
Section 274 Party

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Section 274 Party

Appendix A

Amend 18.1.1.6 (Introduction to Section 18)

The Harbourside Edge Zone encompasses an area adjoining Birch, Kitchener, Wharf and Fryatt Streets ~~and Kitchener Street~~ and extends to the waterfront. The zone provides for ...

Amend Objective 18.2.1.h

h. an area ~~around~~ adjoining Birch, Kitchener, Wharf and Fryatt Streets ~~and Kitchener Street~~ and the coast (HE Zone) which provides for the continuation of the existing environment characterised by industrial activity, while allowing for a transition toward a vibrant and attractive place to live, work and visit by also providing for conference, meeting and function, entertainment and exhibition, restaurant, visitor accommodation, training and education and residential activities.

Amend Policy 18.2.1.15

Enable training and education in the CBD, all centres, CEC North Zone, and WP, PPH, SSYP and HE zones, and Campus in the **Campus mapped area**, to enable tertiary (including the University of Otago and Otago Polytechnic) and specialist education providers.

New Policy 18.2.2.X

In the **Campus mapped area** in the Harbourside Edge Zone, only allow campus, restaurants, conference, meeting and function, entertainment and exhibition, visitor accommodation, residential activities and large-scale community and leisure activity where the potential for reverse sensitivity will be avoided or, if avoidance is not practicable, adequately mitigated.

18.3.4 Land Use Activity Status Table (CBD Edge and Mixed Use Zones)

1.	Performance standards that apply to all land use activities	a. Acoustic insulation (noise sensitive activities)				a. Acoustic insulation (noise sensitive activities) b. Electrical interference c. Light spill d. Location e. Noise f. Setback from National Grid (National Grid sensitive activities only)	
Commercial activities		Activity status					Performance standards
		a. WP	b. PPH	c. SS	d. HE SYP		
2.	Ancillary licensed premises	Same activity status as underlying activity					
3.	Bulky goods retail	P	NC	NC	NC		a. Minimum car parking b. Minimum vehicle loading
4.	Conference, meeting and function	P	NC	NC	<u>X. outside the Campus mapped area; or</u> <u>Y. RD in the Campus mapped area</u>		a. Minimum car parking
5.	Commercial advertising	NC	NC	NC	NC		
6.	Dairies	P	P	P	P	a. Maximum gross floor area of dairies	

7.	Entertainment and exhibition	P	NC	NC	<u>X.</u> <u>outside the Campus mapped area</u> ; or <u>Y.</u> <u>RD in the Campus mapped area</u>	P a. Minimum car parking
8.	Food and beverage retail	D	D	NC	NC	
9.	General retail - retail services in a scheduled heritage building	P	NC	NC	NC	a. Minimum car parking b. Minimum vehicle loading
11.	General retail 1500m ² or more in gross floor area	P	NC	NC	NC	a. Minimum car parking b. Minimum vehicle loading
X.	All other general retail	NC	NC	NC	NC	
12.	Training and education	P	P	P	P	
13.	Office in a scheduled heritage building	P	NC	P	P	a. Maximum gross floor area of office activity in HE Zone
14.	Office not in a scheduled heritage building	NC	NC	NC	P	a. Maximum gross floor area of office activity in HE Zone

15.	Restaurants	P	D	D	<u>X.</u> outside the Campus mapped area ; or Y. RD in the Campus mapped area	P a. Minimum car parking
16.	Restaurant - drive through	NC	D	NC	NC	
17.	Retail ancillary to industry	P	P	NC	P	a. Maximum gross floor area of retail ancillary to industry
18.	Service stations	NC	RD	NC	NC	a. Service station standards b. Minimum car parking
19.	Stand-alone car parking	P	P	P	P	
20.	Trade related retail	P	P	NC	NC	a. Minimum car parking b. Minimum vehicle loading
21.	Visitor accommodation	P	P	P	<u>X.</u> outside the Campus mapped area ; or Y. RD in the Campus mapped area	P a. Minimum car parking b. Minimum vehicle loading

22.	Conference, meeting and function and entertainment and exhibition ancillary to visitor accommodation	P	RD	RD	P	a. Minimum car parking
23.	Yard based retail	NC	P	NC	NC	a. Minimum car parking b. Minimum vehicle loading
Community activities		a. WP	b. PPH	c. SSYP	d. HE	Performance standards
24.	Community and leisure - small scale	P	P	P	P	a. Minimum car parking
25.	Community and leisure - large scale	P	P	P	<u>X.</u> outside the Campus mapped area ; or <u>Y.</u> RD in the Campus mapped area	a. Minimum car parking
26.	Conservation	P	P	P	P	
27.	Early childhood education	RD	RD	RD	RD	a. Minimum car parking
28.	Sport and recreation	P	P	P	P	a. Minimum car parking
Residential activities		a. WP	b. PPH	c. SSYP	d. HE	Performance standards

29	All activities in the residential activities category	P	P	P	<u>X.</u> <u>outside the Campus mapped area;</u> or <u>Y. RD in the Campus mapped area</u>	P a. Minimum car parking
Industrial activities		a. WP	b. PPH	c. SSYP	d. HE	Performance standards
30	All activities in the industrial activities category	P	P	NC	P	a. Minimum car parking b. Minimum vehicle loading
Major facility activities		a. WP	b. PPH	c. SSYP	d. HE	Performance standards
31	Emergency services	P	P	P	P	a. Minimum car parking
<u>X</u>	<u>Campus in the Campus mapped area</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>RD</u>	
32	All other activities in the major facility activities category	NC	NC	NC	NC	
Rural activities		a. WP	b. PPH	c. SSYP	d. HE	Performance standards
33	All activities in the rural activities category	NC	NC	NC	NC	

Amend Rule 18.6.17.2

2. New buildings and structures, and additions and alterations must be designed to enable public pedestrian access through from Birch, Fryatt and Kitchener streets to the public walkway required in Rule 18.6.17.3, at a minimum of ~~three~~ five locations, as follows:

- a. one accessway must be located within 5m of the 'Roberts Street public accessway' shown on Figure 18.6.17B;
- b. ~~two~~ four further accessways must be located in the general area of the 'other public accessways' shown on Figure 18.6.17B;
- c. the accessways must be available for public use between the hours of 8.00am and 10.00pm; and
- d. the accessways may be external to or internal to (through) buildings.

New Figure 18.6.17B: Harbourside Edge public walkway mapped area and location of accessways



Rule 18.10 Assessment of Restricted Discretionary Land Use Activities

18.10.5 Assessment of restricted discretionary activities in an overlay zone, mapped area, heritage precinct or affecting a scheduled item

Activity	Matters of discretion	Guidance on the assessment of resource consents
X. In the Campus mapped area: - Conference, meeting and function - Entertainment and exhibition - Restaurants - Visitor accommodation	a. Reverse sensitivity effects b. Effects on the safety and efficiency of the transport network	<u>Relevant objectives and policies:</u> <u>Objective 18.2.2</u> <u>The potential for reverse sensitivity will be avoided or, if avoidance is not practicable, adequately mitigated (Policy 18.2.2.X).</u> See Rule 6.11

18.10.5 Assessment of restricted discretionary activities in an overlay zone, mapped area, heritage precinct or affecting a scheduled item

Activity	Matters of discretion	Guidance on the assessment of resource consents
• <u>Community and leisure large-scale</u> • <u>All activities in the residential activities category</u> • <u>Campus</u>	c. <u>Effects on accessibility</u>	See Rule 6.11

Section 34.1 Introduction

Add at the end of the 5th paragraph “Land use activities provided”

The **Campus mapped area** also extends along the northern end of the Steamer Basin in the Harbourside Edge Zone to facilitate redevelopment of that space.

Appendix B

Amend planning map as shown below:

