

In the Environment Court of New Zealand
Christchurch Registry

I Mua I Te Kōti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-270

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	University of Otago Appellant
And	Dunedin City Council Respondent

Consent memorandum – Campus Zone provisions

12 August 2020

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 University of Otago appeal regarding the Campus Zone provisions of the proposed Dunedin City Second Generation District Plan (**2GP**).
- 2 The University of Otago appeal sought to:
 - (a) Delete Policy 34.2.2.4 and Rule 34.6.1 relating to boundary treatments and other landscaping (DCC Reference number 190);
 - (b) Delete Policy 34.2.1.7 relating to subdivision (DCC Reference number 196).
- 3 There are no section 274 parties to this appeal.
- 4 The parties have agreed to the changes to the Plan set out in **Appendix A**.
- 5 There is no impact on any higher objectives or strategic directions. Consequential amendments as a result of the changes are included in **Appendix A**.
- 6 The rationale for these changes, and the assessments in terms of section 32 of the RMA, is explained in *the attached DM*  an affidavit of Sarah Hickey, a policy planner at ~~Dunedin City Council~~.
- 7 This is a partial settlement of the appeal (DCC Reference numbers 190 and 196). The appeal reference points, topics and status of proceedings for the unresolved appeal points are as follows:
 - (a) Group 2c Heritage precinct provisions and mapping (DCC reference numbers 215 and 236), resolved at mediation;
 - (b) Group 2c Campus - Campus Zone provisions (DCC Reference numbers 185, 187, 191, and 198), scheduled for mediation;
 - (c) Group 3a Commercial – Harbourside Edge Zone (DCC Reference number 203), scheduled for mediation;
 - (d) Group 3a Amendments to relocatable buildings provisions and reinstatement of minimum floor level provisions (DCC Reference number 205), not yet scheduled for mediation;
 - (e) Group 3b Hazardous substances provisions (DCC Reference number 213), not yet scheduled for mediation;

- (f) Group 4a Heritage schedule changes (DCC Reference number 224), not yet scheduled for mediation
 - (g) Group 4a Tree rules (DCC Reference number 241), not yet scheduled for mediation; and
 - (h) Appeal points 206 and 246 (DCC Reference numbers) have been withdrawn.
- 8 The making of orders is not contingent on settlement/determination of other appeals challenging as addressed in the attached affidavit.
- 9 As explained in the attached affidavit, there are no appeals on the provisions being amended through this consent order.
- 10 The agreed changes shown in **Appendix A**:
 - (a) Amend the format of Rule 34.6.1 (Boundary treatments and other landscaping) to clarify that the landscaping provisions are only applicable to activities other than standard residential or campus activity; (DCC Reference number 190); and
 - (b) Amend Policy 34.2.1.7 to provide for subdivision necessary for the effective and efficient operation of campus activities (and consequential amendment to assessment rule 34.10.5.1.a.ii.2) (DCC Reference number 196).
- 11 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

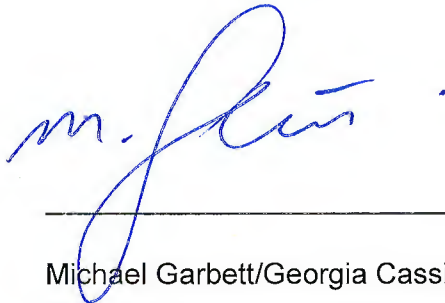
- 12 The parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the RMA, including Part 2 and request:
 - (a) That the amendments shown in strikethrough and underline in **Appendix A** are made; and
 - (b) That the remaining parts of this appeal remain to be dealt with at a later date.

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

Dated this 12th day of August 2020



Phil Page/Derek McLachlan
University of Otago
Counsel for the Appellant



Michael Garbett/Georgia Cassidy
Counsel for the Respondent

Appendix A

Policy 34.2.1.7 Only allow subdivision activities:

- a. if they are intended and/or capable of being used for standard residential activity, and they are in accordance with the objectives, policies and rules of the residential zones; or
- b. if they are necessary for the effective and efficient operation of campus activity; or {Uni196}
- c. if they are necessary for the disposal of surplus land in accordance with Policy 2.3.1.6.

34.6.1 Boundary Treatments and Other Landscaping

1. For any site or part of a site being developed for anything other than standard residential or campus activity, landscaping must be provided as follows:
 - a. where a building is not built to the street frontage, a landscaping area with a minimum 1.5m width must be provided along the full length of any road frontage (except for where vehicle access is provided), with an average of one tree for every 5m of frontage;
 - b. within any car parking area greater than 200m² (excluding loading areas), a minimum of 1m² of landscaped area must be provided for every car parking space, with an average of one tree per 10m² of landscaping.
2. Landscaping required by 34.6.1.1 must: {Uni190}
 - a. ~~must~~ {Uni190} be fully and densely planted with trees, shrubs and ground cover plants, with total coverage of the ground area in planting (when mature) required except for 10% of the area, which may be used for pedestrian paths;
 - b. ~~must~~ {Uni190} not have more than 10% cover in permeable surfaces (to allow for pedestrian paths);
 - c. ~~must~~ {Uni190} have a physical barrier (border or curb) that prevents cars from damaging plants; and
 - d. as required, ~~must~~ {Uni190} use trees that are at least 1.5m height at the time of planting and capable of growing to a minimum height of 5m within 10 years of planting.

3. x. ensure Pplanting {Uni190} associated with new buildings or site development must be completed prior to occupation of the relevant building(s) or upon completion of site development activities.
4. y. ~~The landscaping areas must~~ {Uni190} be maintained to a high standard, including keeping areas free of rubbish and weeds, and ensuring trees and under-planting are healthy.

5.3. Any road boundary fences provided must be placed on the property side of road frontage landscaping required by this rule.

6.4. Activities that contravene this performance standard are restricted discretionary activities.

34.10.5 Assessment of restricted discretionary subdivision activities		
Activity	Matters of discretion	Guidance on the assessment of resource consents
1. All subdivision activities	a. Effects on the efficient and effective operation of the Campus	<i>Relevant objectives and policies:</i> i. Objective 34.2.1 ii. Subdivision activities are only allowed: 1. if they are intended and/or capable of being used for standard residential activity, and they are in accordance with the objectives, policies and rules of the residential zones; or 2. <u>necessary for the effective and efficient operation of campus activities</u>; or {Uni196} 3. if they are necessary for the disposal of surplus land in accordance with Policy 2.3.1.6 (Policy 34.2.1.7).
	b. Effects on the safety and efficiency of the transport network	See Rule 6.11

		c. Effects on the efficiency and affordability of infrastructure	See Rule 9.6
		d. Risk from natural hazards	See Rule 11.5
		e. Effects on public access	See Rule 10.6
		f. Effects on biodiversity values and natural character of riparian margins and the coast	