

In the Environment Court of New Zealand
Christchurch Registry

I Mua I Te Kōti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-276

Under the Resource Management Act 1991

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 **Blueskin Projects Limited and Others**

Appellant

And **Dunedin City Council**

Respondent

Affidavit of Emma Christmas

Affirmed *26 March* 2021

Concerning:

Group 4

Topic: Residential – Site Specific

Appeal point DCC Reference 142

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.**

I, **Emma Christmas** of Dunedin, Senior Policy Planner, hereby solemnly and sincerely affirm:

- 1 I am a senior policy planner at Dunedin City Council.
- 2 I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014. This evidence has been prepared in accordance with it and I agree to comply with it. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
- 3 I have been employed by Dunedin City Council as a policy planner for almost eight years. During this time, I have primarily worked on drafting the 2GP, assessing submissions, preparing and presenting s42A reports and working on the appeals. Prior to this, I was self-employed as a planner for 10 years, working mainly on consent applications and consent hearings. Prior to that I was Team Leader Consents at Environment Canterbury for five years. I am a certified independent hearings commissioner and a full member of the New Zealand Planning Institute.

Introduction

- 4 This affidavit provides the rationale, and an assessment in terms of section 32, of the changes agreed in the following consent memorandum:
 - (a) Residential – site specific (Blueskin Projects Limited and others).
- 5 The appeal sought to amend the zoning of 15 Church Street, Mosgiel, from General Residential 1 to Inner City Residential.
- 6 The proposed changes amend the 2GP planning map to:
 - (a) Rezone the site to General Residential 2 Zone;
 - (b) Apply an infrastructure constraint mapped area to manage wastewater infrastructure issues; and
 - (c) Apply a Mosgiel mapped area to manage urban design on the site.
- 7 Construction Industry and Developers Association (support) and Gladstone Family Trust (support) are s274 parties to the appeal.

Scope for change

- 8 The appeal requested the site be rezoned to Inner City Residential (ICR). The agreed zoning, General Residential 2 (GR2), is within the scope of the appeal as the GR2 zone is a zoning type that sits between the current zoning (General Residential 1 Zone (GR1)) and ICR zoning. The GR2 and

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ICR zones enable the same density of residential development; however, the GR2 Zone has a more restrictive height performance standard than the ICR Zone.

- 9 The infrastructure constraint mapped area and Mosgiel mapped area are consequential to the rezoning, and have been applied to manage particular issues. The effect of these mapped areas and the rationale for why they are required, is explained in more detail below. The mapped areas have the effect of creating a set of provisions that sit between the current GR1 zoning and the ICR zoning sought via the appeal, and so are within the scope of the appeal.

Assessment of other appeals

- 10 As part of my assessment of the appropriateness of this change, I have considered whether there are other appeals on the provisions affected by these amendments, to understand whether there is overlap between different appeals on the same provisions in the plan.
- 11 There are no other appeals on the zoning of the appeal site.

Planning background

- 12 The site is currently zoned GR1. There is no obvious rationale for this, as adjoining residential sites are zoned GR2. The adjoining GR2 sites are subject to an infrastructure constraint mapped area and Mosgiel mapped area.
- 13 The infrastructure constraint mapped area applies a lower permitted development density standard compared to other GR2 zoned areas (one habitable room per 100m², compared to one habitable room per 45m² of site area, Rule 15.5.2). It is applied in order to manage impacts on the wastewater network, as some constraints exist within Mosgiel, particularly during wet weather. This is discussed further below.
- 14 The Mosgiel mapped area provides for slightly smaller setbacks from boundaries for buildings and structures (Rule 15.6.13) than apply in other GR2 areas. This is to reflect the existing urban form in Mosgiel.
- 15 The key strategic objective relating to providing sufficient residential land is Objective 2.6.2. Under this objective, Policy 2.6.2.3 provides a list of criteria for rezoning land to medium density residential zoning, and references the key objectives which should be considered.

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Decision Background

- 16 The 2GP Residential Hearing Panel considered broad submissions to provide for more intensive residential development in flat areas of the city, including Mosgiel. These submissions were rejected on the grounds that there was no strong case for adding large areas of additional Inner City Residential or GR2 zoning at this time, for reasons including that the additional capacity may not be needed, there were infrastructural network constraints in Mosgiel, and that a conservative approach to zoning medium density areas would promote sustainable management better than a more permissive approach.

Assessment (s75 and s32)

National Policy Statement for Urban Development 2020

- 17 The National Policy Statement for Urban Development 2020 (**NPS-UD**) came into effect on 20 August 2020. It recognises the national significance of having well-functioning urban environments and providing sufficient urban development capacity to meet the needs of the community. It requires that the DCC provides at least sufficient development capacity to meet expected demand for housing over the short, medium and long term¹.
- 18 The requirements of the NPS-UD relating to providing sufficient development capacity are reflected in Objective 2.6.2. This is discussed later in this affidavit.

Consistency with higher order documents (s.75)

- 19 The Otago Regional Policy Statement (partially operative) includes Objective 4.5, which is that: is "Urban growth and development is well designed, occurs in a strategic and coordinated way, and integrates effectively with adjoining urban and rural environments".
- 20 Policy 4.5.1 is to provide for urban development is a strategic and co-ordinated way, including by ensuring that there is sufficient housing development capacity, efficient use of land, and co-ordination with infrastructure development.
- 21 Policy 4.5.3 is concerned with design of new urban development, including a built form that relates well to its surrounding environment. These provisions are implemented in the 2GP, including through Policy 2.6.2.3,

¹ Policy 2 and implementation section 3.2. Housing land capacity for the long term does not need to be included in the district plan.

which identifies the criteria for rezoning land to medium density zones, and provisions in Section 15, which sets performance standards relating to urban design.

Section 32AA Assessment

- 22 The 2GP objectives that are relevant to the proposed changes are Objective 2.6.2, the objectives referenced in Policy 2.6.2.3 (2.6.1, 2.2.2, 2.4.1, 11.2.1), Objective 2.7.1 and Objective 15.2.4.

Objective 2.6.2

- 23 Objective 2.6.2 relates directly to housing capacity. It is proposed to be amended through Variation 2 to reflect the requirements of the NPS-UD. The amended wording is:

Dunedin provides sufficient, feasible, development capacity (as intensification opportunities and zoned urban land) in the most appropriate locations to at least meet the demand over the medium term (up to 10 years), while sustainably managing urban expansion in a way that maintains a compact city with resilient townships as outlined in Objective 2.2.4 and policies 2.2.4.1 to 2.2.4.3.

- 24 Objective 2.6.2 is proposed to be changed through Variation 2 to reflect the requirements of the National Policy Statement on Urban Development 2020. Variation 2 was notified on 3 February 2021 and submissions close on 4 March. At the time of writing, it is not known whether any submissions have been lodged on this change. The amended wording is:

Dunedin provides sufficient, feasible, development capacity (as intensification opportunities and zoned urban land) in the most appropriate locations to at least meet the demand over the medium term (up to 10 years), while sustainably managing urban expansion in a way that maintains a compact city with resilient townships as outlined in Objective 2.2.4 and policies 2.2.4.1 to 2.2.4.3.

- 25 The policy test for rezoning a site to medium density zoning is outlined in Policy 2.6.2.3. I note that there are also changes proposed to Policy 2.6.2.3 through Variation 2; however, these do not change the substantive assessment criteria in clauses c and d. The changes:

- (a) Amend the term 'infrastructure constraint mapped area' to 'wastewater constraint mapped area'; and

- (b) Amend the wording of Objective 2.2.2 in clause c.ii, to reflect the proposed incorporation of Objective 2.2.5 into Objective 2.2.2 (this is being done in order to remove duplication in the two objectives).

26 The amended wording is:

Identify areas for new medium density zoning based on the following criteria:

- a. alignment with Policy 2.6.2.1; and
- b. rezoning is unlikely to lead to pressure for unfunded public infrastructure upgrades, unless either an agreement between the infrastructure provider and the developer on the method, timing, and funding of any necessary public infrastructure provision is in place, or an infrastructure wastewater constraint mapped area is applied; and
- c. considering the zoning, rules, and potential level of development provided for, the zoning is the most appropriate in terms of the objectives of the Plan, in particular:
 - i. there is a range of housing choices in Dunedin that provides for the community's needs and supports social well-being (Objective 2.6.1);
 - ii. Dunedin reduces its environmental costs and reliance on non-renewable energy sources as much as practicable, including energy consumption, water use, and the quality and quantity of stormwater discharge, and is well equipped to manage and adapt to changing or disrupted energy supply by having reduced reliance on private motor cars for transportation (Objective 2.2.2), including through one or more of the following:
 1. being currently serviced, or likely to be easily serviced, by frequent public transport services; and
 2. being close (good walking access) to existing centres, community facilities such as schools, public green spaces recreational facilities, health services, and libraries or other community centres; and

- iii. the elements of the environment that contribute to residents' and visitors' aesthetic appreciation for and enjoyment of the city are protected or enhanced. These include:
 - 1. important green and other open spaces, including green breaks between coastal settlements;
 - 2. trees that make a significant contribution to the visual landscape and history of neighbourhoods;
 - 3. built heritage, including nationally recognised built heritage;
 - 4. important visual landscapes and vistas;
 - 5. the amenity and aesthetic coherence of different environments;
 - 6. the compact and accessible form of Dunedin (Objective 2.4.1); and
- iv. the potential risk from natural hazards, and from the potential effects of climate change on natural hazards, is no more than low, in the short to long term (Objective 11.2.1); and
- d. the area is suitable for medium density housing by having all or a majority of the following characteristics:
 - i. lower quality housing stock more likely to be able to be redeveloped;
 - ii. locations with a topography that is not too steep;
 - iii. locations that will receive reasonable levels of sunlight; and
 - iv. market desirability, particularly for one and two person households.

27 Given the very minor nature of the proposed change (one site), and the GR2 zoning of adjoining sites, a full assessment against Policy 2.6.2.3 is not included in this affidavit. Nonetheless, I am satisfied that the zoning is consistent with this policy. The rezoning will add a very small amount to

Dunedin's residential capacity, and so will more effectively achieve Objective 2.6.2.

- 28 Whether the amendment to Objective 2.6.2 proposed through Variation 2 is confirmed or not makes no difference to my assessment that the changes agreed through this appeal more effectively achieve this objective.
- 29 Likewise, I have considered the proposed rezoning against both versions of Policy 2.6.2.3 and my conclusion remains the same.

Objective 2.7.1

- 30 Objective 2.7.1 is:

Public infrastructure networks operate efficiently and effectively and have the least possible long term cost burden on the public.

- 31 As noted above, constraints exist within the wastewater network within Mosgiel during wet weather. The infrastructure constraint mapped area² is applied to GR2 sites within Mosgiel to manage the amount of residential development that can occur on the site. It has the effect of reducing the residential development potential from one habitable room per 45m² of site area, to one habitable room per 100m² of site area.
- 32 With this mapped area applied, I am satisfied that Objective 2.7.1 will continue to be met.

Objective 15.2.4

- 33 Objective 15.2.4 is:

Activities maintain or enhance the amenity of the streetscape, and reflect the current or intended future character of the neighbourhood.

- 34 The application of the Mosgiel mapped area will ensure that design of new development the site reflects the existing urban form in the surrounding area. This will more effectively achieve Objective 15.2.4 than not applying the mapped area.

² For completeness, if the proposed change of name from infrastructure constraint mapped area to wastewater constraint mapped area is made through Variation 2, the mapping layer applying to this site will be updated to reflect this.

Effect of any appeals on relevant objectives and policies

35 For completeness, I have assessed the appeals on the related policies and objectives and strategic directions to ensure no appeals are likely to change the policy framework in a way that would change the above assessment.

36 There are no appeals on the objectives and policy identified above.

Affirmed at Dunedin
this 26 day of March 2021,
before me:

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Emma Christmas


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A Solicitor/Deputy Registrar of the High Court of New Zealand
Justice of the Peace

Peter Benjamin Williams
Solicitor
Dunedin