

In the Environment Court of New Zealand
Christchurch Registry

I Mua I Te Kōti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-284

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	Gregory Paul Ward Appellant
And	Dunedin City Council Respondent

Affidavit of Emma Christmas

Affirmed 18 March 2021

Concerning:

Group 2

Topic: Residential zoning site-specific (Halfway Bush)

Appeal point DCC Reference number 66

Respondent's solicitors:

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**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 (**DCC** or **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 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 (Halfway Bush) - Gregory Paul Ward, dated 19 October 2020.
- 5 The appeal sought to amend the zoning of 2 Dalziel Road from Rural Residential 1 to Large Lot Residential 1.
- 6 The proposed changes amend the 2GP planning map to:
 - (a) Rezone the site to Large Lot Residential 1 Zone; and
 - (b) Apply a 'No DCC reticulated wastewater' mapped area to the site.
- 7 RPR Properties Limited is a section 274 party to this appeal.

Scope for change

- 8 The rezoning is clearly within the scope of the appeal. The application of a no reticulated wastewater mapped area is consequential to the zoning, and indicates that the site will not be serviced for wastewater by DCC.

Assessment of other appeals

- 9 As part of my assessment of the appropriateness of this change, I have considered whether there are other appeals on the zoning of the site, to understand whether there is overlap between different appeals on the same site.
- 10 There is one other appeal that affects the area subject to this appeal. This is an appeal by Aurora (ENV-2018-CHC-277, DCC Reference number 214) to add new provisions to the plan to require that activities are set back from Aurora's key electricity distribution infrastructure. I note that this infrastructure crosses the area covered by the Ward appeal. The Aurora appeal has been resolved in a consent memorandum that is signed, but awaiting filing with the Court. It adds new provisions that apply to development activities, earthworks and subdivision within a stated distance of electricity distribution infrastructure.
- 11 These agreed provisions, if approved by the Court in a consent order, will apply to subdivision and development of the part of the site close to the existing electricity infrastructure. In my opinion the site is sufficiently large to locate a second dwelling outside the identified electricity distribution infrastructure corridor, so the outcomes and agreements reached on these appeals do not interfere with each other.
- 12 There are no other appeals on the zoning of this site.

Planning background

- 13 The appeal relates to 2 Dalziel Road. This is one of a row of six sites along Dalziel Road, each developed with a single house. I understand the sites were subdivided in the 1950s. 2 Dalziel Road is 4,305m², and the remaining sites are all approximately 2,300m². All the sites are zoned Rural Residential 1, along with the surrounding land.
- 14 Rezoning the site as proposed would provide for one additional site to be subdivided and developed for housing (the minimum site size in the Large Lot Residential Zone is 2,000m²).
- 15 I note that the remaining sites in the row are proposed to be rezoned to Large Lot Residential 1 through Variation 2 to the 2GP. Variation 2 was notified on 3 February 2021 and submissions closed on 4 March.
- 16 The key strategic objective relating to providing sufficient residential land is Objective 2.6.2. Under this objective, Policy 2.6.2.1 provides a list of criteria



for rezoning land to residential and references the key objectives which should be considered.

Decision Background

- 17 The 2GP Urban Land Supply Hearing Panel considered submissions to rezone land in the Dalziel Road area in section 3.8.13.5 of the decision¹. The Panel refused to rezone the site to residential (along with a number of other nearby sites). The sites were discussed together and the reasons given included a lack of need for additional housing in the short term, a lack of capacity in the water and wastewater networks, potential effects on the transport network, impacts on rural character and amenity, and a lack of alignment with Policy 2.2.4.1 (criteria for larger lot density zoning).

Consistency with higher order documents (s.75)

National Policy Statement for Urban Development 2020

- 18 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 term².
- 19 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.

Otago Regional Policy Statement (partially operative)

- 20 The Otago Regional Policy Statement (**ORPS**) includes the following objective and policies in relation to urban growth.
- 21 Objective 4.5 is that:

Urban growth and development is well designed, occurs in a strategic and coordinated way, and integrates effectively with adjoining urban and rural environments.

¹ Urban Land Supply Decision of Hearings Panel Proposed Second Generation Dunedin city District Plan, 7 November 2018

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

22 Policy 4.5.1 is

Provide for urban growth and development in a strategic and co-ordinated way, including by:

- a) Ensuring future urban growth areas are in accordance with any future development strategy for that district.*
- b) ...;*
- c) Ensuring that there is sufficient housing and business land development capacity available in Otago;*
- d) ...*
- e) Coordinating the development and the extension of urban areas with infrastructure development programmes, to provide infrastructure in an efficient and effective way.*
- f) Having particular regard to:*
 - i. Providing for rural production activities by minimising adverse effects on significant soils and activities which sustain food production;*
 - ii. Minimising competing demands for natural resources;*
 - iii. Maintaining high and outstanding natural character in the coastal environment; outstanding natural features, landscapes, and seascapes; and areas of significant indigenous vegetation and significant habitats of indigenous fauna;*
 - iv. Maintaining important cultural or historic heritage values;*
 - v. Avoiding land with significant risk from natural hazards;*
- g) Ensuring efficient use of land;*
- h) Restricting urban growth and development to areas that avoid reverse sensitivity effects unless those effects can be adequately managed;*
- ...*

23 This policy is implemented through a number of objectives and policies in the 2GP³. The consistency of the rezoning with the 2GP provisions is discussed below. In my view, the rezoning is consistent with this policy.

Section 32AA Assessment

24 The key strategic direction objective relevant to the proposed reasoning is Objective 2.6.2. This objective relates directly to housing capacity and is proposed to be amended through Variation 2 to reflect the requirements of the NPS-UD. The amended wording is:

³ Including objectives 2.2.3, 2.2.4, 2.3.1, 2.4.2, 2.4.4, 2.4.5, 2.5.3, 2.6.2, 2.7.1, 11.2.1 and associated policies.

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. ec.

- 25 Policy 2.6.2.1 outlines the relevant considerations for zoning land residential. It is also proposed to be amended through Variation 2. The amended wording is:

Identify areas for new residential zoning based on the following criteria:

- a. *rezoning is necessary to ensure provision of at least sufficient housing capacity to meet expected demand over the short and medium term ~~meet a shortage of residential capacity (including capacity available through releasing a Residential Transition overlay zone)~~; either:
 - i. ~~the short term (up to 5 years); or~~
 - ii. ~~in the medium term (up to 10 years), in which case a Residential Transition overlay zone is applied to the rezoned area (Change H1); 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 a Residential Transition overlay zone is applied and a future agreement is considered feasible; and*
- c. *the area is suitable for residential development by having all or a majority of the following characteristics:
 - i. a topography that is not too steep;
 - ii. being close to the main urban area or townships that have a shortage of capacity;
 - iii. currently serviced, or likely to be easily serviced, by frequent public transport services;
 - iv. close to centres; and
 - v. close to other existing community facilities such as schools, public green space and recreational facilities, health services, and libraries or other community centres;*
- d. *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. the character and visual amenity of Dunedin's rural environment is maintained or enhanced (Objective 2.4.6);*
- ii. land and facilities that are important for economic productivity and social well-being, which include industrial areas, major facilities, key transportation routes, network utilities and productive rural land:*
 - 1. are protected from less productive competing uses or incompatible uses, including activities that may give rise to reverse sensitivity; and*
 - 2. in the case of facilities, able to operate efficiently and effectively (Objective 2.3.1).*

Achieving this includes generally avoiding areas that are highly productive land or may create conflict with rural water resource requirements;

- iii. Dunedin's significant indigenous biodiversity is protected or enhanced, and restored; and other indigenous biodiversity is maintained or enhanced, and restored; with all indigenous biodiversity having improved connections and improved resilience (Objective 2.2.3). Achieving this includes generally avoiding the application of new residential zoning in ASBV and UBMA;*
- iv. Dunedin's outstanding and significant natural landscapes and natural features are protected (Objective 2.4.4). Achieving this includes generally avoiding the application of new residential zoning in ONF, ONL and SNL overlay zones;*
- v. the natural character of the coastal environment is, preserved or enhanced (Objective 2.4.5). Achieving this includes generally avoiding the application of new residential zoning in ONCC, HNCC and NCC overlay zones;*
- vi. subdivision and development activities maintain and enhance access to coastlines, water bodies and other parts of the natural environment, including for the purposes of gathering of food and mahika kai (Objective 10.2.4);*
- vii. 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; and*
6. *the compact and accessible form of Dunedin (Objective 2.4.1);*

- viii. *the potential risk from natural hazards, including climate change, is no more than low, in the short to long term (Objective 11.2.1);*
- ix. *public infrastructure networks operate efficiently and effectively and have the least possible long term cost burden on the public (Objective 2.7.1);*
- x. *the multi-modal land transport network, including connections between land air and sea transport networks, operates safely and efficiently for all road users (Objective 2.7.2); and*
- xi. *Dunedin stays a compact and accessible city with resilient townships based on sustainably managed urban expansion. Urban expansion only occurs if required and in the most appropriate form and locations (Objective 2.2.4).*

26 The appropriateness of the proposed rezoning is discussed below in relation to each clause of Policy 2.6.2.1.

Demand over the medium term (Policy 2.6.2.1.a)

27 A housing capacity assessment undertaken in early 2019⁴ identified that Dunedin has a shortfall in residential capacity over the medium term of approximately 1,000 dwellings. This analysis has recently been repeated and is due to be published in the next few months. The updated analysis shows that there is a shortfall in capacity of approximately 230 dwellings over the short term and 1,640 over the medium term.

28 Rezoning this site will provide capacity for one extra dwelling. While this will have a negligible on the projected shortfall of residential capacity, the rezoning will nonetheless contribute towards achieving Objective 2.6.2.

⁴ Housing Capacity Assessment Dunedin City, January 2019.

https://www.dunedin.govt.nz/data/assets/pdf_file/0010/704962/Housing-capacity-assessment-for-Dunedin-City.pdf

Pressure for public infrastructure upgrades (Policy 2.6.2.1.b, 2.6.2.1.d.ix)

- 29 Objective 2.7.1 is that public infrastructure networks operate efficiently and effectively and have the least possible long term cost burden on the public.
- 30 The site is located outside an area that can be serviced for wastewater by DCC. The existing dwelling and neighbouring dwellings are all self-serviced for wastewater disposal. Any new dwellings would similarly be required to self-service. To ensure there is no future demand for servicing, a 'no reticulated wastewater' mapped area is proposed to be applied. This advises of the inability to service the site but has no other impact on the development of the site.
- 31 The existing house on the site is serviced for drinking water. DCC's 3 Waters staff have indicated that the additional site could also be serviced for drinking water.
- 32 There is no DCC stormwater infrastructure servicing this site. Stormwater is likely to need to be attenuated on site. These requirements can be dealt with at the time of subdivision.

Slope (Policy 2.6.2.1.c.i)

- 33 The site slopes gently and is suitable for residential development.

Proximity to services (Policy 2.6.2.1.c.ii-v)

- 34 The site is approximately 2km from the nearest centre (Wakari neighbourhood centre), and 1.2km from the nearest school (Halfway Bush School (primary). It has easy access to the CBD via Taieri Road. The nearest bus route is currently 750m away.

Rural character / visual amenity (Policy 2.6.2.1.d.i)

- 35 Objective 2.4.6 is that the character and visual amenity of Dunedin's rural environment is maintained or enhanced.
- 36 The policies beneath this objective relate to identification of amenity values in rural land and protecting those through appropriate management of development activities and the density of residential activity in rural zones. They are implemented through rules and policies in Section 16 – Rural Zones. All rezoning to residential will result in loss of rural character and amenity. It is not considered that Objective 2.4.6 requires protection of all rural character and amenity values as this would prevent any new residential zoning.

- 37 The rezoning will allow a single additional dwelling close to an existing row of houses. Impacts on rural character will be negligible.

Economic productivity (Policy 2.6.2.1.d.ii)

- 38 Objective 2.3.1 is that:

Land and facilities that are important for economic productivity and social well-being, which include industrial areas, major facilities, key transportation routes, network utilities and productive rural land are:

- a. protected from less productive competing uses or incompatible uses, including activities that may give rise to reverse sensitivity ...*

- 39 Policy 2.6.2.1.d.ii notes that in relation to residential zoning, achieving this objective includes generally avoiding areas that are highly productive land or may create conflict with rural water resource requirements.

- 40 The site has no high class soils and is not considered to be highly productive land (defined in the 2GP as "Land that has the ability to sustain the production of a wide variety of plants including horticultural crops, through a combination of land, soil and climate attributes").

Significant indigenous biodiversity (Policy 2.6.2.1.d.iii)

- 41 Objective 2.2.3 is that Dunedin's significant indigenous biodiversity is protected or enhanced, and restored; and other indigenous biodiversity is maintained or enhanced, and restored; with all indigenous biodiversity having improved connections and improved resilience.

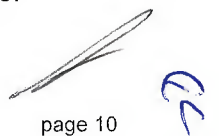
- 42 The site has no indigenous biodiversity values.

Natural landscapes and natural coastal character (Policy 2.6.2.1.d.iv and v)

- 43 Objective 2.4.4 is that Dunedin's outstanding and significant natural landscapes and natural features are protected. Achieving this includes generally avoiding the application of new residential zoning in outstanding natural features or landscapes, or significant natural landscape overlay zones.

- 44 Objective 2.4.5 is the natural character of the coastal environment is, preserved or enhanced. Achieving this includes generally avoiding the application of new residential zoning in outstanding, high and natural coastal character overlay zones.

- 45 The proposed rezoning does not include any outstanding or significant landscapes or outstanding, high or natural coastal character areas.



Access to the coast and waterbodies (Policy 2.6.2.1.d.vi)

- 46 Objective 10.2.4 is that subdivision and development activities maintain and enhance access to coastlines, water bodies and other parts of the natural environment, including for the purposes of gathering of food and mahika kai.
- 47 The site is not located near the coast or any waterbodies to which access is required. Rezoning, and subsequent subdivision and development will not affect access to the natural environment.

Aesthetic appreciation of the city (Policy 2.6.2.1.d.vii)

- 48 Objective 2.4.1 is that:

The elements of the environment that contribute to residents' and visitors' aesthetic appreciation for and enjoyment of the city are protected and enhanced. These include:

- a. important green and other open spaces, including green breaks between coastal settlements;*
 - b. trees that make a significant contribution to the visual landscape and history of neighbourhoods;*
 - c. built heritage, including nationally recognised built heritage;*
 - d. important visual landscapes and vistas;*
 - e. the amenity and aesthetic coherence of different environments; and*
 - f. the compact and accessible form of Dunedin.*
- 49 The site does not contain significant or protected green spaces, trees, heritage or vistas. The environment will remain one with a low density residential feel. The compact and accessible form of Dunedin is considered in paragraph 54 below.

Hazards (Policy 2.6.2.1.d.viii)

- 50 Objective 11.2.1 is that the potential risk from natural hazards, including climate change, is no more than low, in the short to long term.
- 51 The site is not subject to any mapped hazard overlay zones. A site assessment indicated that the site has a low hazard risk.

Effects on transport network and accessibility (Policy 2.6.2.1.d.x)

- 52 Objective 2.7.2 is that public infrastructure networks operate efficiently and effectively and have the least possible long term cost burden on the public.
- 53 DCC's transport department has no concerns in relation to the proposed rezoning.

Compact city (Policy 2.6.2.1.b.xi)

- 54 Objective 2.2.4 requires that Dunedin "*stays a compact and accessible city with resilient townships based on sustainably managed urban expansion...*"
- 55 While the site does not adjoin existing residential zoned land, it is adjacent to an established row of residential dwellings. The addition of a single site to this row of houses will not detract from Objective 2.2.4.
- 56 Policy 2.2.4.1 requires that the efficient use of existing urban land is prioritised by ensuring that land is zoned at a standard or medium density except if on-site factors make standard density inappropriate. As this site cannot be serviced for wastewater, a larger site size is required to allow on-site disposal. Large lot residential zoning is therefore appropriate.

Conclusion

- 57 Rezoning this site is consistent with Policy 2.6.2.1 and the objectives referenced within that policy, and will more appropriately achieve Objective 2.6.2. My conclusion would not change if the changes proposed to made to Objective 2.6.2 are confirmed.

Effect of any appeals on relevant objectives and policies

- 58 For completeness, I have assessed the appeals on the objectives and policies outlined above to ensure no appeals are likely to change the policy framework in a way that would change the above assessment.
- 59 Tussock Top Farms Limited (ENV-2018-CHC-282, appeal point 301) and Saddle Views Estate Limited ENV-2018-CHC-283, appeal point 323) seek to delete Objective 2.4.4, which is to protect Dunedin's significant natural landscapes and features. This policy is paraphrased on Policy 2.6.2.1. There is a signed consent memo between parties resolving this appeal, which makes no change to Objective 2.4.4. However, as there are no significant landscapes or features on the sites, the outcome of this appeal will not affect the assessment of the rezoning discussed above.

60 There are no other appeals on the objectives identified above.

Affirmed at Dunedin)
this 18 day of March 2021,)
before me:)

Emma Christmas

Emma Christmas



Stephen Mark McAustin

Barrister

Dunedin

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A Solicitor of the High Court of New Zealand