

**IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH  
I TE KŌTI TAIAO O AOTEAROA  
KI ŌTAUTAHĪ**

**Decision No. [2025] NZEnvC 192**

IN THE MATTER

of the Resource Management Act 1991

AND

an appeal under clause 14(1) of the  
First Schedule of the Act

BETWEEN

S G JOHNSTON

(ENV-2018-CHC-296)

Appellant

AND

DUNEDIN CITY COUNCIL

Respondent

Environment Judge K G Reid – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Determination: 16 June 2025

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**CONSENT DETERMINATION**

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A: Under s279(1)(b) RMA,<sup>1</sup> the Environment Court, by consent, orders that:

- (1) the appeal is allowed. Dunedin City Council is to amend the District Plan as set out in Annexure A attached to and forming part of this order; and
- (2) the appeal is otherwise dismissed.



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<sup>1</sup> Resource Management Act 1991.

B: Costs are reserved.

## REASONS

### Introduction

[1] This proceeding concerns an appeal by Mr Stephen Johnston against Dunedin City Council's decision to reject his submission on the Second Generation Dunedin District Plan (2GP) that sought rezoning of 78 and 90 Stornoway Street and 89 Grimness Street, Karitane, from Coastal Rural to Township and Settlement zoning.

### Background

[2] A mediation agreement signed by the parties at court-assisted mediation on 28 March 2022 provided for the rezoning of the site from the Coastal Rural zone to the Township and Settlement zone.

[3] The National Policy Statement for Highly Productive Land 2022 (NPS-HPL) came into effect on 17 October 2022, several months after the mediation agreement was signed.

[4] In an interim decision dated 5 May 2025,<sup>2</sup> the court considered whether the mediation could still be implemented now that the NPS-HPL is in effect. No party opposed giving effect to the mediation agreement, if there was a legally available way for that to happen.

[5] In the interim decision, the court adopted option 3 of the options identified by the appellant. Option 3 was to rezone the sites to Rural Lifestyle Zone, with bespoke site-specific provisions that enable residential development opportunities to occur in locations outside the natural hazard and landscape overlay locations.

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<sup>2</sup> *Johnston v Dunedin City Council* [2025] NZEnvC 144.

The court considered the rezoning of the subject land as Rural Lifestyle to be the most appropriate outcome and more appropriate than the existing provisions. The court directed the parties to file a joint memorandum with proposed plan provisions for the court to consider, or alternatively advise the court that they cannot agree.

### **Agreement reached**

[6] By joint memorandum dated 23 May 2025, the parties advised they have agreed structure plan provisions, as set out in Annexure A.

[7] The parties have liaised regarding other matters to give effect to the mediation agreement. These matters include the registration of a covenant in favour of Dunedin City Council at the time of building consent on the relevant records of title. The court is not being asked to do anything with this part of the agreement.

### **Other relevant matters**

[8] Otago Regional Council have given notice of an intention to become a party under s274 RMA, and have signed the joint memorandum.

### **Consideration**

[9] In making these orders the court has read and considered:

- (a) the notice of appeal;
- (b) the interim decision; and
- (c) the joint memorandum of counsel dated 23 May 2025.

[10] The agreement reached gives effect to the court's interim decision.

[11] The court is making this order under s279(1)(b) RMA, such order being by

consent, rather than representing a decision or determination on the merits pursuant to s279.

### **Outcome**

[12] All parties to the proceeding have executed the memorandum requesting the orders. On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought.

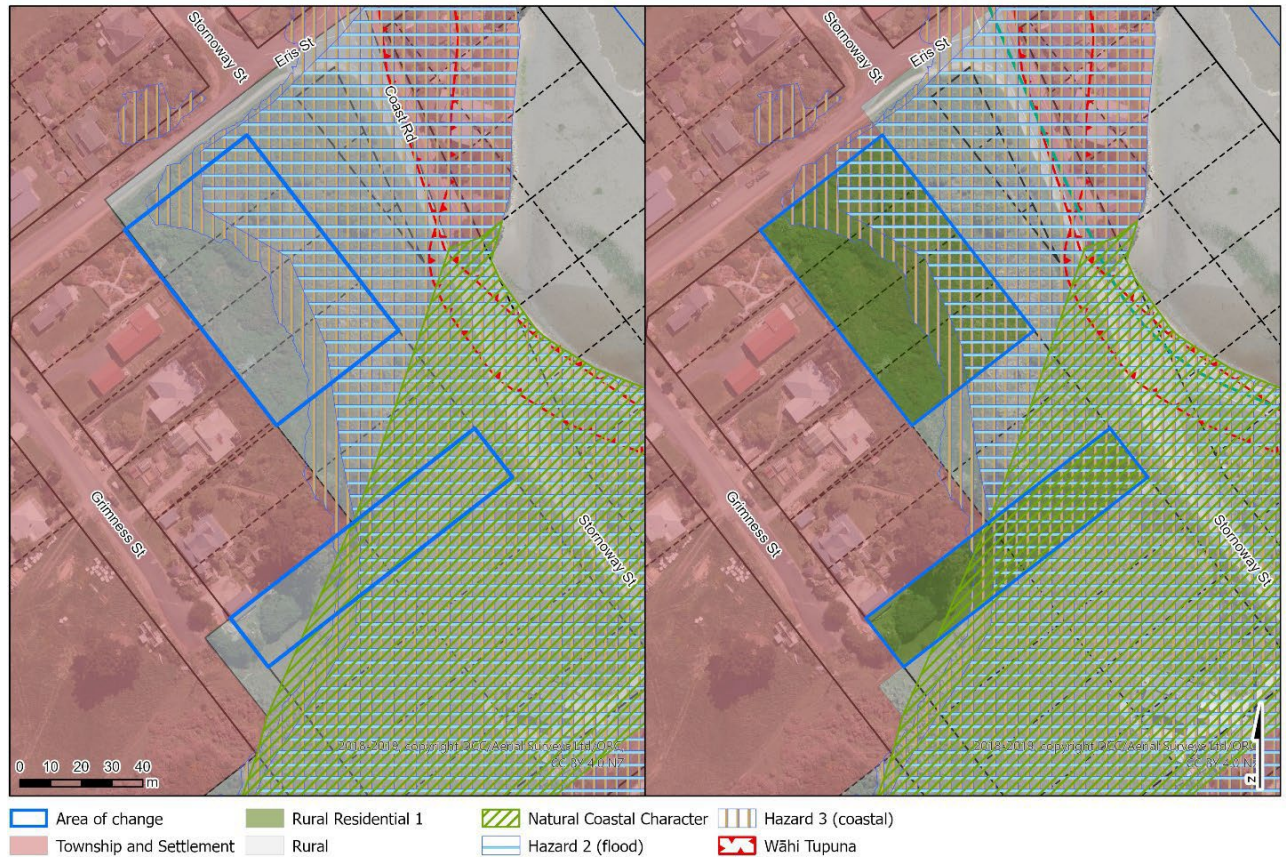


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**K G Reid**  
**Environment Judge**

## Annexure A - amendments to the 2GP

1. Amend the 2GP Planning Map for 78 and 90 Stornoway Street and 89 Grimness Street, Karitane, to rezone the land from Coastal Rural to a Rural Residential 1 Zone, as follows:



2. Add a new Rule 17.7A.8 Stornoway Grimness Street Structure Plan Mapped Area Rules

### 17.7A.8 Stornoway Grimness Street Structure Plan Mapped Area Rules

#### 17.7A.8.1 Land use performance standards

##### a. Density

- i. Standard residential activities in the **structure plan mapped area** must not exceed:
  1. one stand-alone residential unit in Area A or two residential units in the form of a duplex; and
  2. one residential unit in Area B.
- ii. For the sake of clarity, ancillary residential units are not provided for.
- iii. Activities that contravene this performance standard are non-complying activities.
- iv. For the sake of clarity, this performance standard supersedes Rule 17.5.2.

### 17.7A.8.2 Development performance standards

#### a. Access

- i. Driveways within the **structure plan mapped area** must:
  1. provide access to Area A from Eris Street, from the 'intersection location' in yellow on Figure 17.7A.8A; and
  2. provide access to Area B from Grimness Street.
- ii. Activities that contravene this performance standard are non-complying activities.
- iii. For the sake of clarity, this performance standard is additional to Rule 17.6.7.

#### b. Building location

- i. Residential buildings except decks and their supporting structures in the **structure plan mapped area** must be located outside the Restricted Development Area in Figure 17.7A.8A.
- ii. Activities that contravene this performance standard are non-complying activities.

#### c. Boundary Setbacks

- i. New buildings, new structures, and additions and alterations, must be set back from boundaries as follows:
  1. 4.5m from any road boundary only in relation to Area A;
  2. 2m from side and rear boundaries;
  3. except:
    1. the setback from any road boundary may be reduced to 0.5m for garages (stand-alone and attached) and carports no greater than 4.5m in width (as measured parallel to the road boundary) that have their entry facing the road and that meet Rule 17.6.5 (maximum height);
    2. the setback from the side and rear boundary may be reduced to 1m for garages (stand-alone and attached) and carports that are no greater than 6m in length (as measured parallel to the boundary) and that meet Rule 17.6.5 (maximum height);
    3. decks less than 0.5m above ground level, signs attached to buildings and structures, all fences, and structures or parts of structures that are underground are exempt from this standard;
    4. structures less than 10m<sup>2</sup> in footprint and 2m in height, and water and other storage tanks 10m<sup>2</sup> or greater in footprint and less than 2m in height, are exempt from the minimum setbacks from side and rear boundaries;
    5. structures, other than water and other storage tanks, less than 2m<sup>2</sup> in footprint and 2m in height are exempt from the minimum setbacks from road boundaries;
    6. structures that are not visible from the street are exempt from the minimum setbacks from road boundaries; and
    7. eaves, gutters and downpipes less than 3m above ground level may project over a required setback provided that they project by no more than 25% of the width of the required setback.



- ii. On all side and rear boundaries that adjoin a site with a Township and Settlement Zone, new buildings and additions and alterations to buildings must not protrude through a plane rising at an angle of 45 degrees measured from a point 2.5m above ground level at the boundary (see Figure 15.6.6.1C); except:
  - 1. where new buildings or additions and alterations are built to a common wall, any part of a building where the height and angle of the roofline are the same as the adjoining building is exempt from this standard (see Figure 15.6.6.1E);
  - 2. gable ends and dormers may protrude through the height in relation to boundary plane by a maximum of 2m (see Figure 15.6.6.1F); and
  - 3. rooftop structures are exempt from the performance standard for height in relation to boundary.
- iii. Activities that contravene this performance standard are restricted discretionary activities.
- iv. For the sake of clarity, this performance standard supersedes Rule 17.6.9.

**Figure 17.7A.8A Stornoway Grimness Street structure plan**

