

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

IN THE MATTER of the Resource Management Act 1991

AND of appeals under clause 14 of the First
Schedule of the Act

BETWEEN B W TAYLOR & THE ESTATE OF
LAWRENCE TAYLOR

(ENV-2018-CHC-244)

... (continued on separate page)

Appellants

AND DUNEDIN CITY COUNCIL

Respondent

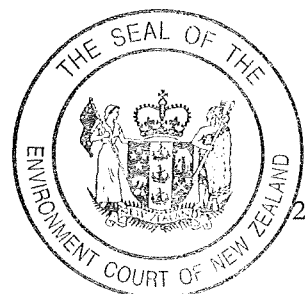
Environment Judge P A Steven – sitting alone under s279 of the Act
In Chambers at Christchurch

Date of Consent Order: 13 August 2021

CONSENT ORDER

A: Under s279(1)(b) of the Resource Management Act 1991, the Environment
Court, by consent, orders that:

- (1) the appeal is allowed to the extent that Dunedin City Council is
directed to make the amendments to the provisions of the proposed
Dunedin City Second Generation District Plan as shown in Appendix



1, attached to and forming part of this order;

- (2) the parts of the appeal by:
- (a) Robert Francis Wyber allocated DCC Reference number 376, are resolved and the appeal is otherwise dismissed;
 - (b) The Preservation Coalition Trust allocated DCC Reference numbers 90 and 91 are resolved and the outstanding parts of the appeal remain to be dealt with at a later date;
 - (c) B W Taylor & the Estate of Lawrence Taylor allocated DCC Reference number 10 is resolved and the outstanding parts of the appeal remain to be dealt with at a later date;
 - (d) Federated Farmers of New Zealand allocated DCC Reference number 189 is resolved and the outstanding parts of the appeal remain to be dealt with at a later date;
 - (e) Blueskin Projects Limited & Others allocated DCC Reference numbers 153, 155, 156, 160, 163, 164, 166, 168 and 170 are resolved and the outstanding parts of the appeal remain to be dealt with at a later date.

B: Under s285 of the Resource Management Act 1991, there is no order as to costs.

REASONS

Introduction

[1] This consent order relates to five appeals by B W Taylor & the Estate of Lawrence Taylor ("Taylor")¹ and others² regarding the Rural and Rural Residential Strategic provisions in the proposed Dunedin City Second Generation District

¹ ENV-2018-CHC-244.

² ENV-2018-CHC-254 Federated Farmers of New Zealand; ENV-2018-CHC-238 Blueskin Projects Limited & Others; ENV-2018-CHC-281 Robert Francis Wyber; ENV-2018-CHC-285 The Preservation Coalition Trust.

Plan ('2GP') and responds to the bundle of two consent memoranda filed 30 April 2021.³

[2] Together, the memoranda propose amendments to resolve part of the Rural/Rural Residential Strategic topic. The appeals by Taylor, Federated Farmers of New Zealand ('Federated Farmers'), and Blueskin Projects Limited & Others ('Blueskin') relate to the Rural Strategic provisions while the appeals by Robert Francis Wyber ('Wyber') and The Preservation Coalition Trust ('PCT') relate to the Rural Residential Strategic provisions of the 2GP.

[3] I have read and considered the consent memoranda of the parties in conjunction with the affidavit of Ms Macleod⁴ who has satisfied me that the amendments sought to partially resolve the Rural/Rural Residential Strategic topic are appropriate. Moreover, granting the relief sought by this order will not impact on the resolution of any other proceeding.⁵

[4] The parties advise that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Pt 2.

Other relevant matters

[5] A number of parties gave notice of an intention to become a party to these appeals under s274 of the Resource Management Act ('RMA'). Several of whom expressed a general interest but were noted as non-signatories to the consent memoranda.

[6] DCC's memorandum dated 6 August 2021 records all but two of those non-signatories have confirmed the relief sought by this order is acceptable.

³ Federated Farmers, Blueskin and Taylor's consent memorandum dated 10 March 2020; Wyber and PCT's consent memorandum dated 18 February 2021.

⁴ Affidavit of J E Macleod affirmed 30 April 2021.

⁵ Affidavit of J E Macleod affirmed 30 April 2021 at [60]-[66], [69]-[75], [169]-[185].

Having considered the memoranda and the attempts made to reach the remaining non-signatories,⁶ I am satisfied that adequate opportunity has been provided for those parties to express their views on the relief sought.

[7] I consider all relevant s274 parties, whose interest extends to the matters resolved by this order, have signed the relevant memoranda seeking the orders.

[8] The parties to the appeal agree that costs should lie where they fall and accordingly no order for costs is sought.

[9] The parties advise that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Pt 2.

Outcome

[10] 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.



P A Steven
Environment Judge



⁶ K J Taylor and Saddle View Estates Limited who joined the Wyber appeal as the “Saddle Hill Group.”

List of Parties

ENV-2018-CHC-254	Federated Farmers of New Zealand
ENV-2018-CHC-238	Blueskin Projects Limited & Others
ENV-2018-CHC-281	Robert Francis Wyber
ENV-2018-CHC-285	The Preservation Coalition Trust

APPENDIX 1

1.4 DEFINITIONS

Cluster [Wyber, 376]

A group of adjoining sites of a similar size.

Unfunded public infrastructure upgrades [Wyber, 376]

Upgrades of public infrastructure involving capital spending that is not included either in the DCC's Long Term Plan or the NZTA's Regional Land Transport Strategy.

2 STRATEGIC DIRECTIONS

Policy 2.2.3.3

Maintain or enhance indigenous biodiversity in the rural environment through ~~rules that:~~

a. rules that:

- a. i. require indigenous vegetation clearance to be set back from the coast, wetlands and water bodies, and that restrict indigenous vegetation clearance in the coastal environment and in wetlands;
- b. ii. protect significant indigenous vegetation and/or significant habitats of indigenous fauna in Areas of Significant Biodiversity Value (ASBVs);
- c. iii. protect threatened species and mature examples of important native trees, and otherwise limit the clearance of indigenous vegetation;
- d. iv. manage the location and scale of development adjacent to the coast and water bodies; and
- e. v. require esplanade reserves or esplanade strips when land is subdivided adjacent to the coast and identified water bodies; and

b. policies and assessment rules that:

- f. i. require the assessment of effects on biodiversity values for discretionary and non-complying land use, development and city-wide activities;
- ii. require the assessment of positive effects on biodiversity values for restricted discretionary, discretionary or non-complying land use, development and city-wide activities; and
- iii. create a pathway for residential activities to be established on sites in the rural zones that contravene the minimum site area for residential activity (density standard) where the activity is associated with a significant contribution to the enhancement or protection of biodiversity values. [Federated Farmers, 189; Blueskin Projects 156, 153]

Policy 2.3.1.2

Maintain or enhance the productivity of farming and other activities that support the rural economy through:

- a. rules that enable productive rural activities;
- b. rules that provide for rural industry and other activities that support the rural economy;
- c. zoning and rules that limit subdivision and residential activity based on:
 - i. the nature and scale of productive rural activities in different parts of the rural environment;
 - ii. the location of highly productive land; ~~and~~
 - iii. potential conflict with rural water resource requirements; and
 - iv. in the case of residential activity:
 1. recognition of the existing pattern of subdivision in different parts of the rural environment; and
 2. provision for papakāika; [Federated Farmers, 189; Blueskin Projects 156, 153]
- d. ~~restrict residential activity within the rural environment to that which supports productive rural activities or that which is associated with papakāika; [Federated Farmers, 189; Blueskin Projects 156, 153]~~
- e. rules that require boundary setbacks and separation distances for residential buildings and cemeteries in order to minimise the potential for reverse sensitivity;
- f. rules that restrict subdivision that may lead to land fragmentation and create pressure for residential-oriented development;
- g. rules that prevent the loss of high class soils; and
- h. rules that restrict commercial and community activities in the rural zones to those activities that need a rural location or support rural activities.

Policy 2.6.1.3 [Wyber, 376]

~~Apply rural residential zoning to clusters of sites in separate land tenure already developed or mostly developed for rural residential activity before 7 November 2018, and that meet the criteria in Policy 2.6.1.5, as follows:~~

- a. ~~where the cluster comprises sites already subdivided, or which have consent to subdivide, to an average density of greater than 2ha and less than 4ha, and are either already being used for rural residential activity or there is a high degree of likelihood they will be developed for rural residential activity in the short term, Rural Residential 1 zoning is appropriate; and~~
- b. ~~where the cluster comprises sites each under 15ha with an average site size of generally between 4ha and 10ha, Rural Residential 2 zoning is appropriate.~~

Policy 2.6.1.4 [Wyber, 376]

~~Apply new rural residential zoning only where~~ Provide for lifestyle blocks or hobby farming through the application of rural residential zoning as follows:

- a. ~~there is a demonstrated shortage of rural residential land for lifestyle farming or hobby farming~~ the proposed zoning meets the criteria outlined in Policy 2.6.1.5; and
- b. ~~considering, based on the predicted market availability of rural residential zoned land for the next 5 years, whether~~ the amount of land proposed to be rezoned rural residential appropriately balances providing some land resource for lifestyle farming or hobby farming with the overall Plan strategic spatial planning objectives outlined in objectives 2.2.4, 2.7.1 and 2.7.2; that:
 - i. ~~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);~~
 - ii. ~~public infrastructure networks operate efficiently and effectively and have the least possible long term cost burden to the public (Objective 2.7.1); and~~
 - iii. ~~Objective 2.7.2). and~~
- c. ~~the proposed zoning meets the criteria contained in Policy 2.6.1.5; and~~
- d. ~~the plan change proposal, the following prioritisation will be applied:~~
 - i. ~~considers first rezoning of Rural Residential 2 to Rural Residential 1 land to increase capacity;~~
 - ii. ~~considers next rezoning of any remaining clusters of sites below the minimum site sizes in the rural zones; and~~
 - iii. ~~only after the options in clause i and ii are assessed as inappropriate and/or unfeasible, considers the conversion of other rural sites to rural residential land.~~
- c. in the first instance, only applying rural residential zoning to land in separate tenure as follows:
 - i. where the site or sites are part of a cluster of sites at an average site size of greater than 2ha and less than 4ha, Rural Residential 1 zoning is appropriate; and
 - ii. where the cluster comprises sites each under 15ha with an average site size of between 4ha and 10ha, Rural Residential 2 zoning is generally appropriate, but Rural Residential 1 zoning may be appropriate if it can achieve a similar outcome in terms of the criteria in Policy 2.6.1.5; and
- d. only after those options in c.i and c.ii are assessed as inappropriate, unfeasible or unavailable, considering the rezoning of other rural sites of low productive capacity to rural residential zoning.

Policy 2.6.1.5

~~Identify areas for new~~ Use the following criteria to assess the appropriateness of rural residential zoning, in accordance with ~~Policy 2.6.1.4~~ based on the following criteria ~~when considering any proposal for rezoning under Policy 2.6.1.4:~~ **[Wyber, 376]**

- a. the land is unlikely to be suitable for future residential zoning in line with Policy 2.6.2.1;
- b. rezoning is unlikely to lead to pressure for unfunded public infrastructure upgrades including road sealing, unless an agreement between the infrastructure provider and the developer on the method, timing, and funding of any necessary public infrastructure provision is in place; and
- c. considering the ~~zoning, rules, and potential level of development provided for,~~ the proposed rural residential zoning is the most appropriate in terms of to achieve the objectives of the Plan, in particular: **[Wyber, 376]**
 - i. ~~the character and visual amenity of Dunedin's rural environment is maintained or enhanced (Objective 2.4.6);~~ **[Wyber, 376]**
 - ii. 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 outstanding and significant natural landscapes and natural features are protected (Objective 2.4.4).~~ **[Wyber, 376]** Achieving this includes: generally avoiding the application of new rural residential zoning in ONF, ONL and SNL overlay zones
 1. avoiding the application of new rural residential zoning in the ONF Overlay Zone; and **[PCT, 90]**
 2. in the ONL Overlay Zone, avoiding the application of Rural Residential 1 zoning; **[PCT, 90]** and avoiding the application of Rural Residential 2 zoning, unless rules (such as rules that restrict the scale and location of development activities) can ensure that Objective 2.4.4 will be achieved; and **[Wyber, 376]**
 3. avoiding the application of new rural residential zoning in the SNL Overlay Zone, unless rules (such as rules that restrict the scale and location of development activities) can ensure that Objective 2.4.4 will be achieved; **[Wyber, 376]**
 - iv. ~~the natural character of the coastal environment is preserved or enhanced (Objective 2.4.5).~~ **[Wyber, 376]** Achieving this includes: generally avoiding the application of new rural residential zoning in ONCC, HNCC and NCC overlay zones
 1. avoiding the application of new rural residential zoning in the ONCC and HNCC overlay zones; and **[PCT, 90]**
 2. avoiding the application of new rural residential zoning in the NCC Overlay Zone, unless rules (such as rules that restrict the scale

and location of development activities) can ensure that Objective 2.4.5 will be achieved. [Wyber, 376]

- v. ~~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 rural residential zoning in ASBV and UBMA, unless rules (such as rules that restrict the scale and location of development activities) can ensure that Objective 2.2.3 will be achieved. [Wyber, 376]~~
- vi. ~~the biodiversity values and natural character of the coast and riparian margins are maintained and enhanced (Objective 10.2.2); [Wyber, 376]~~
- vii. ~~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); [Wyber, 376]~~
- viii. Objective 14.2.1; [Wyber, 376]
- ix. ~~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); and [Wyber, 376]~~~~
- x. Objective 11.2.1.

16 RURAL ZONES

16.1 Introduction

...

In response to these issues, seven rural zones and their objectives, policies and rules manage Dunedin's rural environment in a manner that recognises its diversity. The Plan emphasises the importance of providing for rural activities and for other activities

which are reliant on or associated with the rural environment, while acknowledging that residential uses are clearly secondary and subordinate to these activities. This approach seeks to achieve the strategic outcomes for the rural zones, while ensuring that environmental effects are managed at an acceptable level.

To achieve this, the plan sets a minimum site size for subdivision based on average rural property sizes in different parts of the rural environment, using the average property size as an indicator of the site size required for a commercial rural activity. A limited degree of flexibility has been incorporated into the subdivision rules that apply in the rural zones, via provision for surplus dwelling subdivision. The minimum site size required for new residential activities (Rule 16.5.2 Density) is set based on the median rural property size in each rural zone, to better reflect the current pattern of subdivision (which includes sites that are not used for commercial farming). The use of median rather than average property size as a basis for this standard reduces the number of existing sites that fall below the density standard for new residential activity because the median rural property size is lower than the average rural property size in all rural zones.

The rural zones are supported by overlays...

Objective 16.2.1

Rural zones are reserved for productive rural activities and the protection and enhancement of the natural environment, along with certain activities that support the well-being of communities where these activities are most appropriately located in a rural rather than an urban environment. ~~Residential activity in rural zones is limited to that which directly supports farming or which is associated with papakāika.~~

Policy 16.2.1.5

~~Require residential activity, with the exception of papakāika, in the rural zones to be at a level (density) that supports farming activity and achieves objectives 2.3.1, 2.4.6, 16.2.2, 16.2.3 and 16.2.4 and their policies.~~

Policy 16.2.1.5 [Federated Farmers, 189; Blueskin Projects 156, 153]

Avoid subdivision activities that create one or more resultant sites that contravene the minimum site size standard for the zone, unless:

- a. the subdivision is provided for under Policy 16.2.1.10; or
- b. the subdivision, considered as a whole:
 - i. will not result in an increase in the number of sites that contravene the minimum site size; and

- ii. will not result in an increase in the residential development potential of the subject land, beyond that provided for by the density land use performance standard and the minimum site size subdivision standard; and
- iii. will meet policies 16.2.3.8 and 16.2.4.3.

Policy 16.2.1.7

Avoid residential activity in the rural zones on a site that does not comply with the density standards for the zone, unless:

- a. it is the result of a surplus dwelling subdivision; or
- b. the residential activity will be associated with long term land management and/or capital investment that will result in:
 - i. significant positive effects for rural productivity; and/or
 - ii. a significant contribution to the enhancement or protection of biodiversity values. [Federated Farmers, 189, Blueskin Projects 156, 153]

Rule 16.5.2 Density

1. The maximum density of standard residential activity is as follows:

Rural Zone		i. Minimum site size – first residential activity per site	ii. Minimum site size – second residential activity per site	i. Minimum site size – third residential activity per site
...

- h. Except,
 - i. papakāika may be developed at a density of 6 residential units, or 15 habitable rooms per site, whichever is the lesser.
 - ii. in the Middlemarch Basin, High Country and Hill Country rural zones, a single residential activity is permitted on any site that existed before 26 September 2015, and that is 15ha or larger, provided the residential activity is established prior to 7 November 2023 2025. **[Blueskin Projects, 168]**
 - iii. in the Peninsula Coast Rural zone, a single residential activity is permitted on any site that existed before 26 September 2015, and that is 15ha or larger. [Bruce Taylor, 10]

- i. Multiple standard residential activities (additional primary residential buildings (houses)) are only allowed on a single site where they are located no closer than 80m from other residential buildings on the same site (family flats or sleepouts are considered part of the same residential activity), except:
 - i. multiple residential units developed as part of papakāika may be located closer than 80m to each other.
 - j. if a site is crossed by a boundary between two or more rural zones, the maximum density of the standard residential activity must meet the density required for the rural zone in which the residential activity is to be established; and
 - i. the total site size must meet the minimum site size for the zone in which the residential activity is to be established; and
 - ii. for each new residential activity per site, a minimum of 2ha of the site per residential activity must be located within the rural zone in which the residential activity is to be established.
2. One family flat is allowed per site in association with a each standard residential activity that meets this performance standard for density. **[Blueskin Projects, 168]**
3. Standard residential activity that contravenes the performance standard for density is a non-complying activity, except:
- a. papakāika that contravenes the performance standard for density is a discretionary activity; and
 - b. a family flat that contravenes Rule 16.5.2.2 is:
 - i. a restricted discretionary activity where the area of the site is 15ha or more;
 - ii. a discretionary activity where the area of the site is less than 15ha.
- [Blueskin Projects, 168]**

16.5.14.2 Family Flats – Design

- a. Family flats (which include farm workers' accommodation) in all rural zones **[Federated Farmers, 189]** must:
 - i. not exceed a maximum gross floor area of 60m²;
- b. Family flats in the Coastal, Hill Slopes, Peninsula Coast and Taieri Plain rural zones must: **[Federated Farmers, 189]**
 - i. be on the same available water and wastewater infrastructure connection, or the same non-reticulated wastewater disposal system as the primary residential unit;
 - ii. be on the same household electricity account;

- iii. share the same vehicle access as the primary residential unit; and
 - iv. be attached to or located in the same residential building as the primary residential unit, or located within 30m of the primary residential building (house), as measured as the closest distance between any wall of the primary residential building and any wall of the family flat.
- c. Standard residential activity that contravenes this performance standard is a restricted discretionary activity.

16.9.3 Assessment of restricted discretionary performance standard contravention			
Performance standard		Matters of discretion	Guidance on the assessment of resource consents
1.	Family flats - design	...	a. ...
<u>X.</u> [Blueskin Projects, 168]	<u>Density (family flats on sites of 15ha or over)</u>	<u>a. Effects on long term maintenance of rural land for productive rural activities</u>	<u>Relevant objectives and policies:</u> <ul style="list-style-type: none"> a. <u>Objectives 16.2.4.</u> b. <u>The scale, size and nature of activities on highly productive land means that any loss of current or potential future rural productivity would be:</u> <ul style="list-style-type: none"> i. <u>insignificant in any high class soils mapped area; and</u> ii. <u>no more than minor in other areas of highly productive land (Policy 16.2.4.2)</u> <p><u>Potential circumstances that may support a consent application include:</u></p> <ul style="list-style-type: none"> c. <u>Family flats are located in the existing curtilage of the main dwelling, outside productive parts of the site.</u>
		<u>b. Reverse sensitivity effects</u>	<u>Relevant objectives and policies:</u> <ul style="list-style-type: none"> a. <u>Objectives 16.2.2</u> b. <u>Residential buildings minimise, as far as practicable, the potential for reverse sensitivity by being set back an adequate distance from site boundaries (Policy 16.2.2.1.a)</u>

		<u>b. Effects on rural character and visual amenity</u>	<u>Relevant objectives and policies:</u> <ol style="list-style-type: none"> a. <u>Objectives 16.2.3</u> b. <u>The density of residential activity maintains the rural character values and visual amenity of the rural zones (Policy 16.2.3.2).</u>
		<u>c. Effects on health and safety</u>	<u>Relevant objectives and policies:</u> <ol style="list-style-type: none"> a. <u>Objectives 9.2.2</u> b. <u>Only allow land use and development in areas without public water supply, wastewater and stormwater infrastructure where these activities ensure wastewater and stormwater will be disposed of in such a way that avoids or, if avoidance is not practicable, ensures adverse effects on the health of people on the site or surrounding sites are insignificant (Policy 9.2.2.7).</u>
		<u>d. Effects on efficiency and affordability of infrastructure</u>	<u>Relevant objectives and policies:</u> <ol style="list-style-type: none"> a. <u>Objectives 9.2.1</u> b. <u>Development will not lead to future pressure for unplanned expansion of the public wastewater and/or water supply infrastructure (Policy 9.2.1.1.b).</u>

16.11.3 Assessment of discretionary performance standard contravention		
Activity		Guidance on the assessment of resource consents
2.	Density (Papakāiika)	a. ...
<u>3.</u> [Blueskin Projects, 168]	<u>Density (family flats on sites less than 15ha)</u>	<u>Relevant objectives and policies (priority considerations):</u> <ol style="list-style-type: none"> a. <u>Objectives 16.2.3, 16.2.4.</u> b. <u>The density of residential activity maintains the rural character values and visual amenity of the rural zones (Policy 16.2.3.2).</u> c. <u>The scale, size and nature of activities on highly productive land means that any loss of current or potential future rural productivity would be:</u> <ol style="list-style-type: none"> i. <u>insignificant in any high class soils mapped area; and</u> ii. <u>no more than minor in other areas of highly productive land (Policy 16.2.4.2)</u>

		<p>d. <u>The density of residential activity will not, over time and/or cumulatively, reduce rural productivity by displacing rural activities (Policy 16.2.4.4).</u></p> <p><u>Relevant guidance from other sections (priority considerations):</u></p> <p>e. <u>See Section 9.7 for guidance on the assessment of resource consents in relation to objectives 9.2.1 and 9.2.2; and effects related to efficiency and affordability of infrastructure and public health and safety</u></p>
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16.12.5 Assessment of non-complying performance standard contravention		
Activity		Guidance on the assessment of resource consents
1.	Density	<p><i>Relevant objectives and policies (priority considerations):</i></p> <p>a. Objectives 16.2.1, 16.2.3, 16.2.4.</p> <p>b. Policies 16.2.1.7, 16.2.3.2, 16.2.4.4</p> <p>c. Strategic directions: objectives 2.2.2, 2.3.1, policies 2.2.2.1, 2.3.1.2, 2.4.6.2</p> <p>X. <u>The residential activity is the result of a surplus dwelling subdivision (Policy 16.2.1.7.a); or will be associated with long term land management or capital investment that will result in:</u></p> <p style="padding-left: 40px;">i. <u>significant positive effects for rural productivity;</u> <u>or</u></p> <p style="padding-left: 40px;">ii. <u>a significant contribution to the enhancement or protection of biodiversity values (Policy 16.2.1.7.b) [Federated Farmers, 189; Blueskin Projects 156, 153]</u></p> <p><i>Related Strategic Directions:</i></p> <p>Y. <u>Objectives 2.2.2, 2.3.1, policies 2.2.2.1, 2.3.1.2, 2.4.6.2</u></p> <p><i>Relevant guidance from other sections (priority considerations):</i></p> <p>d. See Section 9.8 for guidance on the assessment of resource consents in relation to Objective 9.2.1 and effects related to the efficiency and affordability of infrastructure.</p> <p>e. See Section 10.8 for guidance on the assessment of resource consents in relation to Objective 10.2.1 and the effects related to biodiversity values.</p> <p><u>General assessment guidance: [Federated Farmers, 189; Blueskin Projects 156, 153]</u></p>

		<p>f. <u>In assessing whether a proposal for land management or investment meets Policy 16.2.1.7.b.i and/or 16.2.1.7.b.ii, Council will consider the information provided with the consent application (see Special Information Requirements – Rule 16.13.2).</u></p> <p>g. <u>Types of land management or capital investment that may meet Policy 16.2.1.7.b.i, depending on the specific circumstances of the site and proposal, include substantial investment in farm buildings or other farm assets required for commercial-scale horticulture or other commercial-scale farming.</u></p> <p>h. <u>In assessing whether a proposal may meet Policy 16.2.1.7.b.ii, Council will consider the ecological context of the site and proposal at a local level, rather than requiring the contribution to be significant at an ecological district or citywide level.</u></p> <p><u>Conditions that may be imposed include, but are not limited to:</u> <i>[Federated Farmers, 189; Blueskin Projects 156, 153]</i></p> <p>i. <u>Conditions to ensure that the land management or capital investment will be completed or substantially underway (and thereafter staged), prior to the establishment of residential activity, or, where this is not possible, a bond is taken to ensure the actions required to meet Policy 16.2.1.7.b are undertaken.</u></p> <p>j. <u>Conditions to ensure that existing areas of indigenous vegetation and/or the habitats of indigenous fauna are legally protected in perpetuity.</u></p>
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16.12.5 Assessment of non-complying performance standard contravention		
Activity	Guidance on the assessment of resource consents	
6.	Minimum site size	<p><i>Relevant objectives and policies:</i></p> <p>a. Objectives 2.2.2, 2.2.4, 2.3.1, 2.4.6 <i>[Federated Farmers, 189; Blueskin Projects 156, 153]</i></p> <p>a. Objectives <u>16.2.1, <i>[Federated Farmers, 189; Blueskin Projects 156, 153]</i></u> 16.2.3, 16.2.4</p> <p>b. Areas important for food production are protected from subdivision activities that may diminish food production capacity (Policy 2.2.2.1).</p> <p>c. Subdivision activities that provide for residential activity at a rural residential or urban scale are avoided (Policy 2.2.4.4).</p> <p>d. The productivity of farming and other activities that support the rural economy is maintained or enhanced through restricting subdivision</p>

		<p>activities that may lead to land fragmentation and create pressure for residential-oriented development (Policy 2.3.1.2).</p> <p>e. The identified character values of the rural zones are maintained (Policy 2.4.6.2). [Federated Farmers, 189; Blueskin Projects 156, 153]</p> <p>f. <u>The subdivision, considered as a whole:</u></p> <ol style="list-style-type: none"> i. <u>will not result in an increase in the number of sites that contravene the minimum site size (Policy 16.2.1.5.b.i); and</u> ii. <u>will not result in an increase in the residential development potential of the subject land, beyond that provided for by the density land use performance standard and the minimum site size subdivision standard (Policy 16.2.1.5.b.ii); and</u> iii. <u>will meet policies 16.2.3.8 and 16.2.4.3 (Policy 16.2.1.5.b.iii).</u> [Federated Farmers, 189; Blueskin Projects 156, 153] <p>g. Subdivisions are designed to ensure any associated future land use and development maintain or enhance the rural character and visual amenity of the rural zones (Policy 16.2.3.8).</p> <p>h. Subdivisions are designed to ensure any future land use and development will:</p> <ol style="list-style-type: none"> i. maintain or enhance the productivity of rural activities; ii. maintain highly productive land for farming activity, or ensure any loss is insignificant on any high class soils mapped area and no more than minor on other areas of highly productive land; iii. maintain land in a rural rather than rural residential use; and iv. not increase the potential for reverse sensitivity (Policy 16.2.4.3). <p><u>Related strategic directions:</u></p> <ol style="list-style-type: none"> i. <u>Objectives 2.2.2, 2.2.4, 2.3.1, 2.4.6, policies 2.2.2.1, 2.2.4.4, 2.3.1.2, 2.4.6.2</u>
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Potential circumstances that may support a consent application include:

- j. Where necessary, A legal mechanism is proposed that will ensure that any proposed undersized allotment can not be used for a residential activity, and overall there is no net increase in residential development potential compliance with Policy 16.2.1.5.b.ii.

General assessment guidance:

- k. With respect to Policy 16.2.4.3.c, Council will generally consider that a subdivision that creates a new undersized site intended for rural residential use meets this policy, provided that the subdivision meets Policy 16.2.1.5.b.i & b.ii – for example in the case of a subdivision involving an existing undersized site and a site that exceeds the MSS, which transfers land from the smaller site to the larger site, and transfers a residential development right from the larger site to the smaller site.

- I. In determining whether land is 'highly productive land', Council will consider its land use capability (LUC) classification, the high class soils mapped area (HCS), as well as any other evidence related to productive values. The expectation is that land in the HCS and/or that has a LUC 1-3 classification will be considered 'highly productive land'. Note that information about the LUC classification is provided on the Landcare Research website (<https://www.landcareresearch.co.nz>) and LUC 1-3 areas are shown on the Data Map.
(<https://apps.dunedin.govt.nz/webmaps/secondgenerationplandata/>)

Relevant guidance from other sections (priority considerations):

- m. See Section 9.8 for guidance on the assessment of resource consents in relation to Objective 9.2.1 and effects related to the efficiency and affordability of infrastructure.

16.13.2 Land management or capital investment for productivity or biodiversity gains

1. A resource consent application that includes a proposal for land management or investment intended to achieve significant positive effects for rural productivity (Policy 16.2.1.7.b.i) should, in most circumstances, be supported by a farm management plan or similar document, prepared by a suitably qualified person, which sets out how gains to rural productivity will be achieved over the medium to long term.
2. A resource consent application that includes a proposal for land management or investment intended to achieve a significant contribution to the enhancement or protection of biodiversity values (Policy 16.2.1.7.b.ii) must be supported by an ecological restoration plan, prepared by an ecologist or similarly qualified person, which includes the following:
 - a. a description of the site, including the area or areas to be enhanced;
 - b. a description of any indigenous vegetation present, including a species list;
 - c. a description of the indigenous wildlife present and known to use the site;
 - d. an ecological assessment of the significance of the site using the criteria in Policy 2.2.3.2;
 - e. an assessment of how ecological restoration may contribute to providing connectivity with ecological corridors or nearby areas of ecological importance;
 - f. an assessment of the benefits to biodiversity values of a range of practicable options for biodiversity enhancement, and confirmation that the proposed option is suitable for the site and conforms to best practice;
 - g. a schedule of ecologically appropriate species to be planted, including botanical names;
 - h. a planting plan depicting the location, species density and staging of planting;

- i. measures that will be used to maintain plantings, including the replacement of any dead or non-thriving plants;
 - j. any other measures proposed to enhance habitat for indigenous fauna;
 - k. measures to be used to exclude stock from the enhancement area;
 - l. measures to be used to achieve long-term effective control of plant and animal pest species; and
 - m. the approach to be used to monitor the restoration measures set out in the restoration plan and actions to be taken if measures are not being fulfilled.
- [Federated Farmers, 189; Blueskin Projects 156, 153]***

