

IN THE ENVIRONMENT COURT
AT CHRISTCHURCH

I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI

IN THE MATTER of the Resource Management Act 1991

AND an appeal under clause 14 of the First
Schedule of the Act

BETWEEN WILLOWRIDGE
DEVELOPMENTS LIMITED

(ENV-2018-CHC-219)

Appellant

AND DUNEDIN CITY COUNCIL

Respondent

Environment Judge P A Steven – sitting alone under s279 of the Act

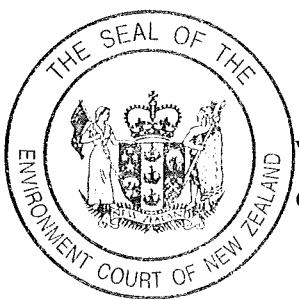
In Chambers at Christchurch

Date of Consent Order: 2 December 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, and Dunedin City Council is directed to amend
the proposed Second Generation Dunedin City District Plan ('2GP')
as set out in Appendix 1, attached to and forming part of this order;
- (2) the appeal is otherwise dismissed.



WILLOWRIDGE DEVELOPMENTS LIMITED V DUNEDIN CITY COUNCIL – 2GP –
CONSENT ORDER

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

REASONS

Introduction

[1] This consent order relates to an appeal by Willowridge Developments Limited (‘Willowridge’) against the decision of the Dunedin City Council approving the proposed Second Generation Dunedin City District Plan (2GP). This appeal relates to the zoning of property at 135/145 Doctors Point Road, Waitati.

[2] I have read and considered the consent memorandum of the parties dated 22 October 2021 which proposes to resolve the appeal. The agreement reached involves rezoning most of the land to Large Lot Residential 1, with a structure plan that limits development to a total of 33 residential activities, and also incorporates specific requirements for public access and the management of wastewater and stormwater.

[3] The court will only make orders if it is satisfied it is appropriate to do so and where there is no relationship between the provisions proposed to be amended by consent order and other appeals before the court. Ms Macleod has satisfied me that the proposed rezoning and structure plan sought to resolve this appeal is appropriate. Moreover, granting the relief sought will not impact on the resolution of any other proceeding.¹

Other matters

[4] Gerald Fitzgerald, Kāti Huirapa Rūnaka ki Puketeraki, Otago Regional Council, Southern Clams Limited and Waitati Beach Reserve Society Incorporated

¹ Affidavit of J E Macleod.

have given notice of an intention to become parties under s274 of the Resource Management Act 1991 (‘the Act’) and have signed the memorandum setting out the relief sought.

[5] For completeness, I record the parties’ attestation that they are satisfied 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, Part 2 and on that basis request that the amendments shown in Appendix 1 are made.

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

[7] Anthony Parata and Lee Paterson gave notice of an intention to become a party under s274 of the Act, but subsequently withdrew.

[8] Blueskin Bay Watch Society Incorporated (‘BBW’) gave notice of an intention to become a party under s274 of the Act. BBW signed a separate memorandum dated 1 December 2021 consenting to the orders sought.

Outcome

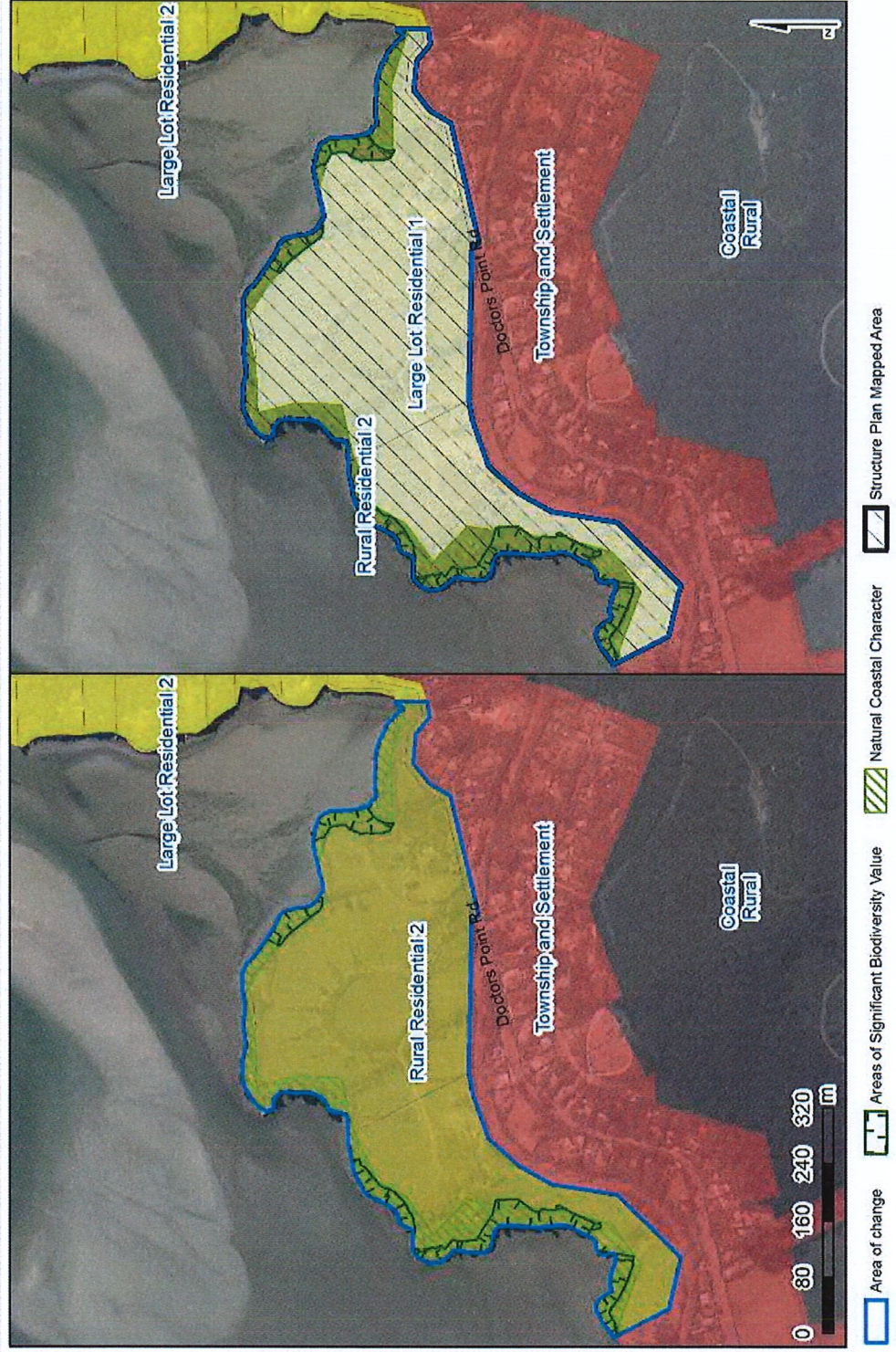
[9] On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought.


P A Steven
Environment Judge



Appendix 1

- 1 Amend the **planning map** to rezone the areas of 135 and 145 Doctors Point Road that are not overlain by scheduled ASBV or Natural Coastal Character Overlay Zone from Rural Residential 2 to Large Lot Residential 1 zoning, and to apply a structure plan mapped area over the full extent of both 135 and 145 Doctors Point Road, as shown below.



2 Add a new Rule 15.8.Y as follows:

15.8.Y Doctors Point Road Structure Plan Mapped Area Performance Standards

- a. The performance standards in Rule 15.8.Y apply to all parts of the Doctors Point Road structure plan mapped area, including land zoned Large Lot Residential 1 and land zoned Rural Residential 2.
- b. In addition to the performance standards in 15.5, 15.6 and 15.7, activities in the **Doctors Point Road structure plan mapped area** must meet the area-specific performance standards below. Where a performance standard in this section specifically provides an exemption or alternative performance standard to a standard in 15.5, 15.6 or 15.7, the standard in this section supersedes that standard.

Note 15.8.YX – General advice

1. Rural Residential 2 Zoning applies to part of the Doctors Point Road structure plan mapped area in order to maintain the protection that the rules associated with this zoning apply to the Scheduled Area of Biodiversity Value and the Natural Coastal Character Overlay Zone that cover parts of the mapped area.

15.8.Y.1 Land use performance standards

- a. Density
 - i. Standard residential activities must not exceed a density of one residential activity per site (note that Rule 15.8.Y.2.b limits the maximum number of sites in the **structure plan mapped area**), except that:
 - 1. one family flat is allowed per site in association with a standard residential activity, provided that the number of habitable rooms across both the primary residential activity and the family flat does not exceed one habitable room per 400m² of site area.
 - ii. Activities that contravene this performance standard are non-complying activities.
 - iii. For the sake of clarity, this performance standard supersedes Rule 15.5.2.
- b. Service connections
 - i. All activities must discharge any wastewater to the communal wastewater system required by Rule 15.8.Y.2.c, except that residential activities that were established before 1 July 2021 may

- continue to use any individual wastewater systems established before 1 July 2021.
- ii. Activities that contravene this performance standard are non-complying activities.
- c. Family flats
- i. Family flats must:
 - 1. only be occupied by a person or persons:
 - 1. related to or dependent on the household that lives in the primary residential unit on the same site; or
 - 2. employed on-site, in a paid or voluntary capacity, as a domestic, child-care, farm or conservation worker by the household that lives in the primary residential unit on the same site.
 - 2. not be on a different tenancy agreement to the primary residential unit.
 - ii. Family flats must:
 - 1. not exceed a maximum gross floor area of 60m²;
 - 2. be on the same available water and waste infrastructure connection, or the same non-reticulated wastewater disposal system as the primary residential unit;
 - 3. be on the same household electricity account;
 - 4. share the same driveway as the primary residential unit; and
 - 5. 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.
 - iii. Standard residential activities that contravene this performance standard are non-complying activities.
 - iv. For the sake of clarity, this performance standard supersedes Rule 15.5.14.

15.8.Y.2 Subdivision performance standards

- a. Access
 - i. Subdivision activities must provide suitably designed and formed public walking access through the mapped area, in general alignment with the route marked in blue on Figure 15.8.Y.
 - ii. Legal access to fulfil clause i above must be created, and accessways must be formed, prior to the issuing of the section 224c certificate for the subdivision.

- iii. Subdivision activities that do not meet this standard are non-complying activities.
 - iv. For the sake of clarity, this performance standard is additional to Rule 6.8.1.
- b. Minimum site size
- i. The minimum site size for new resultant sites is 1650m².
 - ii. The maximum number of resultant sites within the **structure plan mapped area** is 33.
 - iii. Resultant sites created and used solely for the following purposes are exempt from both clause i and clause ii of this performance standard:
 - 1. Scheduled ASBV or QEII covenant;
 - 2. reserve;
 - 3. access;
 - 4. utility; or
 - 5. road.
 - iv. Activities that contravene this performance standard are non-complying activities.
 - v. For the sake of clarity, this performance standard supersedes Rule 15.7.4.
- c. Shape
- i. Each resultant site that does not contain a residential building that was established before 1 July 2021 must provide for a building platform outside of the areas mapped as ASBV and NCC.
 - ii. Resultant sites created and used solely for the following purposes are exempt from the shape standard:
 - 1. Scheduled ASBV or QEII covenant;
 - 2. reserve;
 - 3. access;
 - 4. network utilities; or
 - 5. road.
 - iii. Subdivision activities that contravene this performance standard are non-complying activities.
 - iv. For the sake of clarity, this performance standard applies in addition to Rule 15.7.6.
- d. Wastewater infrastructure

- i. Subdivision activities must provide, if not already present, a communal wastewater system that is designed to facilitate connection to a public wastewater network.
- ii. The communal wastewater system must be installed, and ready to allow connections, prior to the issuing of the section 224c certificate for the subdivision.
- iii. The communal wastewater system must include the following components:
 - 1. a UV treatment module designed to minimise the risk of any pathogens passing out of the system;
 - 2. nitrogen and phosphorous attenuation modules that reduce their concentration prior to any discharge to the ground of treated wastewater; and
 - 3. a telemetric monitoring system that is capable of distributing an instantaneous alert in the event of infrastructure failure or accidental discharge to the Otago Regional Council, Dunedin City Council and Southern Clams Ltd.
- iv. The communal wastewater system must be installed and operated in accordance with a legal instrument that:
 - 1. is registered in favour of Dunedin City Council; and
 - 2. gives ownership and management responsibilities to a residents' association, which all lot owners (with the exception of any owners of lots that use individual wastewater systems permitted under Rule 15.8.Y.1.b.i) must be members of, and which will be responsible for ensuring that the system is appropriately monitored, serviced, maintained and operated, in accordance with the manufacturer's specifications.
 - 4. Activities that contravene this performance standard are non-complying activities.
 - 5. For the sake of clarity, this performance standard is in addition to the requirements of Rule 9.3.7.

Note 15.8.Y.2X – Other requirements outside of the District Plan

1. Under the Regional Plan: Water, resource consent will be needed from the Otago Regional Council for any discharge of wastewater to water or land.

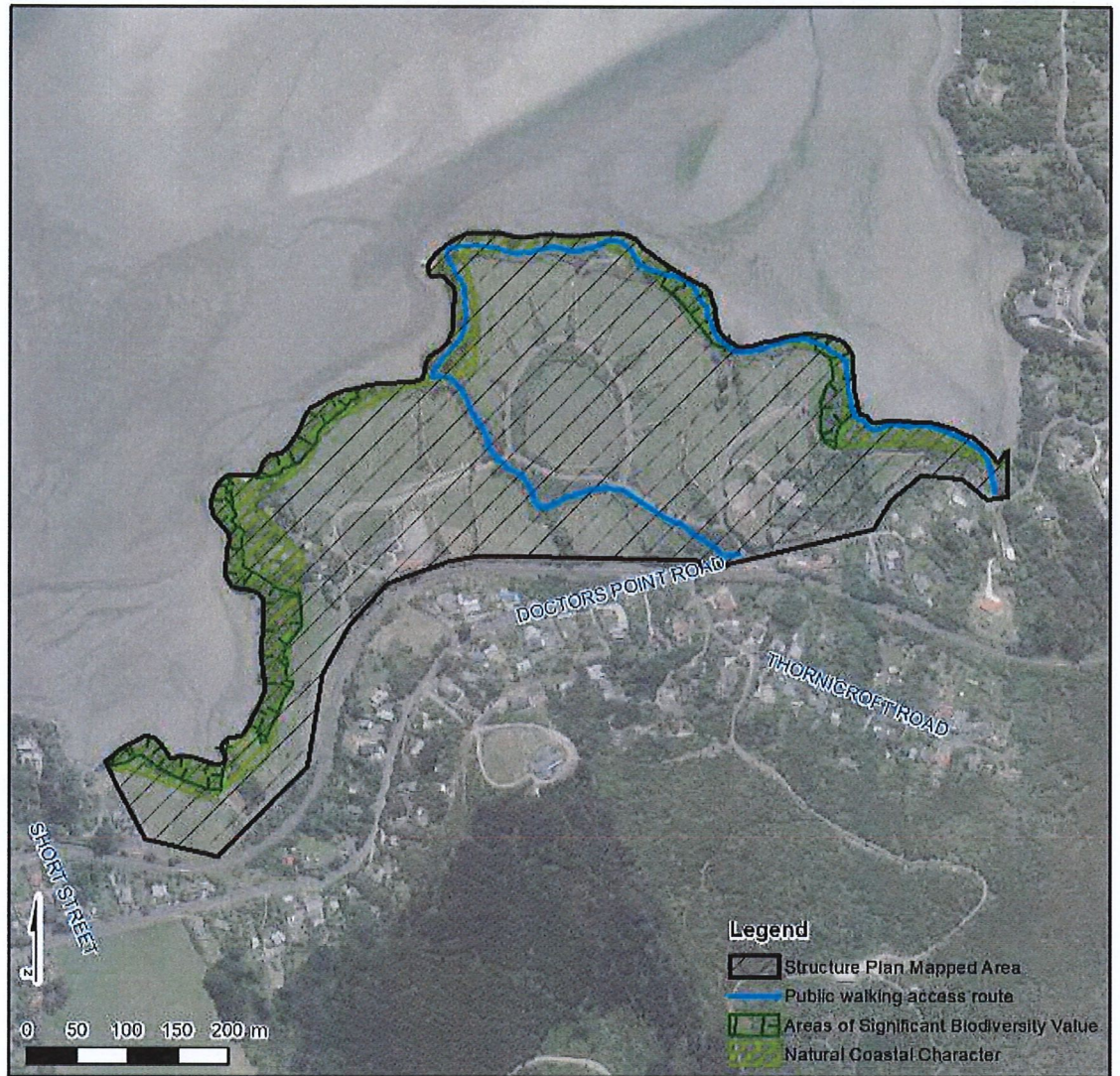
15.8.Y.3 Special information requirements

- a. Prior to any subdivision of the **structure plan mapped area**, a stormwater management plan for the whole structure plan mapped area must be prepared, which addresses the following matters.
 - i. How the design and operation of the stormwater infrastructure will ensure that there will be no increase in the peak post-development

- stormwater discharge rate (taking into account climate change) relative to pre-development as a result of additional impermeable or semi-impermeable surfaces expected over the structure plan area or through modification of the site's natural drainage regime. This includes ensuring that at post-development stage there is no increase in peak stormwater discharge rates from the structure plan area as a result of the development from the **structure plan mapped area** during the 'critical duration' rainfall events and any modified flows will not create adverse effects from stormwater discharge.
- ii. How the stormwater management system will address stormwater quality in order to manage impacts on the quality of the receiving water. The management plan must include the design and location of stormwater quality treatment that demonstrates:
 1. the expected quality of stormwater leaving the specified system; and
 2. its treatment of at least the 'first flush' volume (90th percentile daily rainfall depth) or flow rate (90th percentile rainfall intensity) in accordance with best practice techniques for at least 75% Total Suspended Solids (TSS) removal on a long-term average basis.
 - iii. How the integrity of the stormwater mitigation and management measures will not be compromised during and after subdivision (for example ensuring that open drains that form part of the system will not be blocked or altered).
 - iv. The plan to ensure effective management of erosion and sedimentation on the site during earthworks and as the site is developed, including any measures that will be taken and devices to be installed, where necessary, to:
 1. divert clean runoff away from disturbed ground;
 2. control and contain stormwater run-off;
 3. avoid sediment laden run-off from the site'; and
 4. protect existing drainage infrastructure sumps and drains from sediment run-off.
- b. In addressing the above, consideration should be given to the use of low-impact (or water-sensitive) design features including but not limited to:
- i. grassed/landscaped swales and other vegetation areas;
 - ii. avoidance of formed gutters;
- iii. infiltration trenches/bio-retention systems;
- iv. storage ponds/wetlands/sediment ponds;
 - v. rainwater tanks- harvesting and reuse;
 - vi. rain gardens, rooftop greening and planting, and
 - vii. porous surface treatments;

- viii. consideration of the existing natural topography and the natural course of water flow (overland flow paths) through the design of the subdivision.

Figure 15.8.Y Doctors Point Road Structure Plan Mapped Area



- 3 Amend Rule 17.3.2 Activity Status Introduction to add new Rule 17.3.2.X as follows:

17.3.2 Activity Status Introduction

...

Additional activity status rules in hazard overlay zones

...

11. Activities in a hazard overlay zone must comply with all of the rules in 17.3.3 - 17.3.6.

Rules applying in Doctors Point Road structure plan mapped area

X. Residential activities and subdivision activities within the Doctors Point Road structure plan mapped area are managed under provisions in Section 15, including Rule 15.8.Y Doctors Point Road Structure Plan Mapped Area Performance Standards and any associated provisions that normally apply to these activities in the Large Lot Residential 1 Zone.

4 Make any consequential changes to plan numbering as required as a result of the above amendments. Minor referencing and style changes may also be made for consistency with the 2GP formatting.

