

**IN THE ENVIRONMENT COURT  
AT CHRISTCHURCH**

**I TE KŌTI TAIAO O AOTEAROA  
KI ŌTAUTAHI**

**Decision No. [2022] NZEnvC 34**

IN THE MATTER

of the Resource Management Act 1991

AND

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

BETWEEN

DAISY LINK GARDEN CENTRES  
LIMITED

(ENV-2018-CHC-266)

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: 18 March 2022

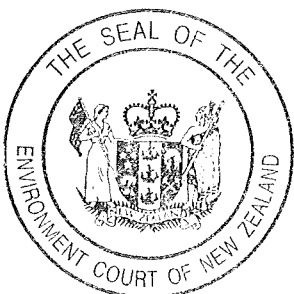
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**CONSENT ORDER**

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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 and planning maps of the proposed Dunedin City Second Generation District Plan as shown in Appendix 1, attached to and forming part of this order;



- (2) the appeal allocated DCC reference number 188 is resolved and the appeal is otherwise dismissed.

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 Daisy Link Garden Centres Ltd against the decision of the Dunedin City Council approving the proposed Dunedin City Second Generation Plan ('2GP'). The appeal relates to the zoning of the property at 27 Inglis Street and Part 58 Ayr Street, Mosgiel ('the site').

[2] I have read and considered the consent memorandum of the parties dated 31 January 2022 which details the agreement reached by the parties to resolve the appeal. The agreement reached involves:

- (a) rezoning the site from Taieri Plain Rural to General Residential 1 zone;
- (b) including a new 'Ayr Street Structure Plan Mapped Area', on the planning maps that cover the site;
- (c) adding new rule 15.8.Z Ayr Street Structure Plan Mapped Area Performance Standards and an exemption to rule 8A5.8 Removal of high class soils so that this rule does not apply within the Ayr Street Structure Plan Mapped Area.

[3] I have also read and considered the affidavit of Mr Rawson who has satisfied me that the amendments proposed are a suitable alternative to the status quo and that granting the relief sought will not impact on the resolution of any

other proceeding.<sup>1</sup>

### **Other relevant matters**

[4] Otago Regional Council and Alison Jane Rutherford have given notice of an intention to become a party to this appeal under s274 of the Resource Management Act ('the RMA' or 'the Act') and have signed the memorandum setting out the relief sought.

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

[6] 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**

[7] 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**



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<sup>1</sup> Affidavit of P B Rawson affirmed 7 March 2022 at [65], [71], [76]-[79].

## Appendix 1



- 2 Amend Rule 15.8 Structure Plan Mapped Area Performance Standards by adding new Rule 15.8.Z Ayr Street Structure Plan Mapped Area Performance Standards, as follows:

**Rule 15.8.Z Ayr Street Structure Plan Mapped Area Performance Standards**

- a. In addition to the performance standards in 15.5, 15.6 and 15.7, activities in the Ayr Street 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.

**Rule 15.8.Z.1 Development performance standards**

- a. Water saving devices
- i. Residential buildings must be designed to install water saving devices, including low-flow shower heads, 6/3 dual flush toilets and aerated sink mixers.
- ii. Activities that contravene this performance standard are non-complying activities.

**Rule 15.8.Z.2 Information requirements**

- a. Integrated Transport Assessment
- i. Prior to any subdivision of the structure plan mapped area, an Integrated Transport Assessment (ITA) for the whole mapped area must be prepared. ITAs must include, but are not limited to, the following matters (see further information on the content of ITAs in Rule 6.14.2):
1. An assessment of the effects of subdivision on the safety and efficiency of the existing transport network, which identifies any transport infrastructural improvements deemed necessary to ensure adverse effects on the safety and efficiency of the transport network, for all modes, are appropriately addressed in accordance with Objective 6.2.3 and Policy 6.2.3.8.
  2. Consideration of internal roading design, layout, and connection points to the existing transportation network for all modes of transport in accordance with the Dunedin Code of Subdivision and Development 2010.

**Note 15.8.Z.2X**

1. Where the results of an Integrated Transportation Assessment required by Rule 15.8.Z.2 demonstrate the need for either:
  - a. Transportation Infrastructure upgrades outside of the site, or
  - b. Transportation infrastructure built to a higher specification because of the need to provide for new growth areas or improve level of service for existing areas.

The responsibility and funding for these upgrades will be negotiated between all landowners and the DCC. Where necessary, the DCC will appoint an independent facilitator or mediator to assist in these negotiations.

2. The DCC requires those persons undertaking development to pay a fair, equitable, and proportionate portion of the costs of capital expenditure to service growth.
3. DCC's contribution to any off-site upgrades or delivery of higher specification for infrastructure will be based on an assessment of the public vs private benefit of the upgrade. This means that in principle the landowner(s) of the structure plan mapped area and/or new development mapped area will only be required to pay that portion of the costs of the upgrades that is necessary to address the effects of or needs of their proposed development area. The balance of the costs will generally be funded through development contribution charges as set out in the DCC's Development Contributions Policy (10 year plan 2021-2031), which details the charges on a per equivalent household unit by area of benefit basis.
4. It is further noted that the completion of these upgrades prior to s224 certification or at a certain point in time agreed to in a condition of consent may be required.

- 3 Amend Rule 8A5.8 Removal of high class soils, as follows:

**8A.5.8 Removal of high class soils**

1. Earthworks must not remove topsoil or subsoil that is located within the high class soils mapped area from the site, except this rule does not apply within:

X. the Ayr Street Structure Plan Mapped Area

2. Activities that contravene this performance standard are restricted discretionary activities.
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.

