IN THE ENVIRONMENT COURT
AT CHRISTCHURCH

I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI

Decision No. [2024] NZEnvC 13

IN THE MATTER	of the Resource Management Act 1991
AND	an appeal under clause 14 of the First Schedule of the Act
BETWEEN	ROBERT DUFFY
	(ENV-2018-CHC-253)
	Appellant
AND	DUNEDIN CITY COUNCIL
	Respondent

Court:	Environment Judge P A Steven Environment Commissioner M C G Mabin
Hearing:	21 – 22 March 2023
	24 November 2023
Counsel:	P Page and G Griffin for Robert Duffy M Garbett and J Hardman for Dunedin City Council A J Logan and T Sefton for Otago Regional Council
Last case event:	18 December 2023
Date of Decision:	13 February 2024
Date of Issue:	13 February 2024

CONSENT DETERMINATION OF THE ENVIRONMENT COURT

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

(1) the appeal is allowed to the extent that Dunedin City Council is to amend the provisions of the proposed Dunedin City Second Generation District Plan as set out in Appendix A, attached to and forming part of this order; and

(2) 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 decision relates to a site at 100 Connell Street, Dunedin, owned by Mr and Mrs Duffy. The site comprises approximately 6.27 ha and has frontage to Portobello Road to the north and Connell Street to the south ('the site').

Background

[2] Under the notified Dunedin City Second Generation District Plan ('2GP') the zoning of the site is split:

(a) the upper southern two-thirds of the site was zoned General Residential 1 ('GRZ'); and
(b) the lower northern third was zoned General Residential 1 Transition Zone ('GR1TZ').

[3] The appeal has been brought by Mr Duffy in relation to the site's lower portion zoned GR1TZ.

[4] GR1TZ was the method used in the notified 2GP proposed as a holding

measure where a site has been identified as suited to residential zoning subject to specific criteria being met, at which point the land would be 'released' for residential development in accordance with the GRZ.

[5] Mr Duffy lodged a submission to the 2GP supporting the GR1TZ for the lower portion of his land while seeking amendments to the release criteria. Other submissions challenged the use of the 2GP GR1TZ methods.

[6] In its decision, the Council found that the release criteria relied on a subjective judgement being made as to when the land could be released and were ultra vires. The criteria were replaced. The GRITZ was renamed Residential Transition Overlay Zone ('RTZ'). The site henceforward fell partly within the RTZ.

[7] The amended release criteria focus on the ability of the site to be serviced with available infrastructure at which point the land would be released for use by a certification process followed by the Chief Executive Officer of the Council or their delegate, in accordance with the amended provisions in the plan.

[8] Other submissions sought removal of the GR1TZ overlay from a number of properties around the Cove, including the appeal site, in favour of a rural residential zone. In response, the Council decision retained the lower portion of the site within the underlying Rural Residential 2 zoning with no transitional overlay enabling release for residential use under a GRZ.

[9] Accordingly, the decision was to reject Mr Duffy's submission to retain the GR1TZ overlay, for reasons that:

(a) there is sufficient residential capacity for the short term;
(b) there are constraints on the three waters network;
(c) steep gradients will make achieving standard residential densities difficult on the site;
(d) the area is some distance from centres and services; and

(e) development would have adverse effects on character and visual amenity.

The appeal

[10] At the hearing, Mr Duffy sought an RTZ overlay for the site, which would enable the land to be released for development under the GRZ provisions, once the amended certification process had occurred.[1]

[11] Otago Regional Council ('ORC') is a s274 party in opposition to the appeal.

Appeal progression

Mediation

[12] The parties attended Environment Court conducted mediation of the appeal, agreeing that additional information ought to be provided to both Councils, namely:

(a) a transportation assessment concerning the design of an intersection and its effects on the efficiency of Portobello Road; and
(b) a geotechnical assessment identifying suitable locations and numbers of building platforms across the site, and the stability of the proposed access.

[13] The transportation assessment was provided, although the Councils considered that the geotechnical information required to be provided remained outstanding.

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[1] Mr Duffy's appeal sought reinstatement of the GRZ, that being the closest available option to the GR1TZ. However, at the commencement of the hearing, Mr Duffy accepted that this went beyond the scope of relief permissible under his appeal and original submission, which had generally supported the transitional zoning in the notified version of the 2GP in relation to his land.

Expert conferencing – geotechnical issues

[14] Prior to the hearing, and following the mediation, the parties' geotechnical experts conferenced and produced a joint witness statement recording matters of agreement ('the Geotechnical JWS').[2]

[15] No technical disagreement was identified in this JWS. All experts considered that a "relatively straightforward ground model" supported low density residential activity although that was qualified as:[3]

(a) further geotechnical investigations including drilling and specific engineering design would be required to progress the geotechnical aspects of the development, such as the location of the access and building platforms; and

(b) further specific inputs would be required to address slope instability hazard aspects, including further site investigations/mapping and slope analysis to enable appropriate slope support and foundation solutions, design of robust management of overland flows/groundwater (to prevent triggering of instability by slope saturation or new concentrated flows that may impact adjacent landowners) and to assist with definition of building setbacks and other mitigation requirements.

[16] Despite that, the experts agreed that there were recognised engineering solutions available to enable successful development of the site.

[17] The Councils' outstanding concerns were that:[4]

> .. rezoning may not provide full certainty on the actual density of residential activity that can be accommodated on this site. Therefore, appropriate conditions will

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[2] Geotechnical JWS, dated 18 November 2022.
[3] Geotechnical JWS, at [5] – [6].
[4] Geotechnical JWS, at [10].

> need to be formulated to ensure that any encumbrances are defined and that the geotechnical recommendations of GeoSolve Ltd are implemented to ensure that adverse effects are reduced to be minor only. There may also be additional conditions that arise at the subdivision and land use consenting stages.

Hearing – 21 and 22 March 2023

[18] A JWS for transport was lodged with the court prior to the hearing.[5]

Position of appellant

[19] Mr Duffy considered that the geotechnical issues were resolved by the first Geotechnical JWS.

[20] During the hearing, Mr Page and the appellant's planning witness (Mr Bowen), spoke to the relevant 2GP provisions on subdivision and earthworks identifying the discretion retained by the Council in relation to geotechnical matters at the resource consent stage.

[21] Mr Page acknowledged that production of a structure plan was required by the mediation agreement although he contended that that had been produced for Mr Duffy. He acknowledged that there was no agreement about what that should say about indigenous at vegetation, although he contended that it had never been advanced as "stop-go" issue that would rule out a residential zone for the site.[6]

[22] However, this emerged as one of the two key issues before the court.

Indigenous vegetation

[23] The site contains approximately 5000 m² of indigenous vegetation, of which approximately 50% would be removed from the lower portion of the site

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[5] Transportation JWS, dated 20 December 2022.
[6] Legal submissions of counsel on behalf of Robert Duffy, dated 20 March 2023, at [15].

for access. However, Mr Duffy intends to replant or allow regeneration of a replacement area of indigenous vegetation covering 2480 m².

[24] Mr Duffy called ecology evidence from Dr Thorsen whose assessment challenged the Council's assessment that areas of indigenous vegetation are significant under the significance criteria under the 2GP.

[25] Dr Thorsen considers that over the course of time this planting and regeneration would produce similar biodiversity values to those present. This would ultimately create a natural coastal forest very similar to the canopy composition comprising a wider variety and quality of plants. Accordingly, consistent with the policy requirement, there would be no net loss of biodiversity from the site.

Dunedin City Council ('DCC')

[26] DCC initially opposed the zoning because without the outstanding geotechnical information that the appellant had agreed to provide, it could not be satisfied that the proposed development for urban purposes would be consistent with the policy framework in the 2GP.

[27] Nor was DCC satisfied that there was adequate protection given to the significant indigenous vegetation on the site.

Otago Regional Council ('ORC')

[28] In principle, the ORC agreed that the site could be developed for low density residential activity, although at the hearing, it also opposed the rezoning on the basis that the information agreed to be provided under the mediated agreement remained outstanding.

[29] The ORC largely supported DCC's position in relation to the geotechnical issues, noting that at the mediation, it was also agreed that a structure plan would

be required for any rezoning specifying the following:

(a) the number of sites, and location of building platforms;
(b) location of access;
(c) measures to avoid and/or remedy any loss of significant indigenous vegetation;
(d) no more than 12 lots accessed via Portobello; and
(e) any other matters arising out of the reports to be provided.

[30] In legal submissions, the ORC noted that in the event that the parties were able to agree to the rezoning (following receipt of the requested further information), a private development agreement would be entered into for the provision of stormwater management and disposal.

[31] At the hearing, the ORC identified the areas of focus as being:

(a) the complexity of construction of the accessway from Portobello Road due to the slope of the land, which would require cuts in the order of approximately 10 m in height;
(b) the variable nature of the rock that would be encountered (tuff and basalt of variable weathering and strength); and
(c) that at least two small-scale scarps from previous shallow landslides are present within 10 m of the proposed cut for the accessway from Portobello Road.

[32] Removal of an area of indigenous vegetation on the lowest portion of the site (for access) was a further concern.

[33] The ORC was dissatisfied with the adequacy of the information as to the ground conditions in the vicinity of the cut for the accessway which would determine what the effects of that cut would be in terms of stability of the site and the level of engineering controls required.

[34] Outstanding issues related to the identification and management of spring-fed watercourses on site which would influence the ability to reduce the risk of slope instability and specific drainage requirements.

[35] ORC considered that geological variation and topographical constraints would also affect the density of development able to be undertaken.

[36] Although a structure plan had been prepared, that had been based upon insufficient information and lacked sufficient certainty to be included into the 2GP. More detailed design plans would need to be informed by the further geotechnical investigations that had yet to be conducted.

[37] ORC's preference was that the further investigations considered necessary by the appellant ought to have occurred *prior* to the rezoning being confirmed. However, at the hearing the ORC accepted that if the rezoning was approved by the court there would need to be a bespoke set of standards and rules in the district plan to ensure that the risks to or associated with ground stability is no more than low before any residential development or subdivision to residential purposes is undertaken.

Further court-directed expert caucusing

[38] Further expert caucusing on geotechnical and indigenous vegetation issues occurred as directed by the court. A JWS from the ecologists was filed on 8 May 2023 ('Ecological JWS'). A further JWS from the geotechnical witnesses was filed on 26 July 2023 ('second Geotechnical JWS'). The geotechnical witnesses were able to agree on necessary geotechnical provisions required in a structure plan. There remained areas of dispute.

[39] Having received the Ecological JWS and second Geotechnical JWS, the planners provided a JWS dated 11 August 2023 ('Planning JWS'). Given the disagreement among geotechnical experts and ecologists, the planners were unable to agree on structure plan provisions.

Hearing – 24 November 2023

[40] A reconvened Environment Court hearing on the implications of the National Policy Statement for Indigenous Biodiversity (NPS IB) was held on 24 November 2023. The court heard further evidence from the ecologists in relation to the significance criteria and effects management hierarchy provisions of the NPS IB.

[41] Legal submissions were due to be filed after the close of that hearing although by memorandum dated 11 December 2023, directions for the filing of closing submissions were vacated as the parties advised they had reached agreement which would fully settle the appeal.

Consent agreement

[42] The parties have agreed to the following amendments to the Plan:

(a) amend the 2GP planning maps in relation to the northern part of 100 Connell Street, to:
    (i) add a new 'Connell Street Structure Plan Mapped Area';
    (ii) add a new development mapped area; and
    (iii) add a new 'Residential Transition Overlay Zone' (RTZ);
(b) amend Appendix 12A to add the new RTZ, showing the land transitioning to General Residential 1;
(c) amend Appendix 12C to add the new development mapped area; and
(d) add new Rule 15.8.AS Connell Street Structure Plan Mapped Area Performance Standards to Section 15 Residential Zones.

[43] There were two key considerations that led to the resolution that were previously a sticking point between the parties requiring hearing time. These were:

(a) addressing the geotechnical risk; and
(b) appropriate protection of indigenous vegetation.

[44] The parties provided the following explanation on how the consent memorandum had been arrived at:[7]

> **Geotechnical no-build area**
>
> The agreement by the parties on the location and purpose of the geotechnical no build area has been important. This is marked on figure 15.8.ASA. The rules require that residential buildings must be located outside of this geotechnical no-build area. Also important were the special information requirement for a geotechnical investigation report. This ensures that the potential risk is reduced to a low level.
>
> **Significant Indigenous vegetation**
>
> Indigenous vegetation clearance has been a key issue. In response to this the parties have agreed on a solution that clearance of significant indigenous vegetation must not occur in the identified areas marked "restricted development area (biodiversity)" in figure 15.8.ASA (see development performance standard 15.8.AS.2). There are very limited exceptions to this that are consistent with other exceptions in the district plan. This ensures appropriate protection to the significant indigenous vegetation present and its values.
>
> **Site Access**
>
> The significant indigenous vegetation protection discussed above has led to more flexible access options being provided (to avoid the significant indigenous vegetation). This includes providing some flexibility on the access type and location to ensure access is not provided through the significant indigenous vegetation. Access could potentially be via a private access, limited to serving no more than 12 residential sites. An alternative contemplated and possible could be legal road to vest in Council. There is some flexibility as to the access location, which potentially could be through adjacent property if that proves feasible for the Applicant.

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[7] Joint memorandum of counsel, dated 15 December 2023.

Section 32AA analysis

[45] Mr Rawson, senior planner at DCC, provided an affidavit affirmed 15 December 2023, which set out a s32AA analysis in support of the agreement.

[46] Application of an RTZ to the site would allow its future development as General Residential 1 Zone, in accordance with Rule 12.3.1, once the release criteria are met. The key strategic direction objective is therefore Objective 2.6.6. Policy 2.6.2.1 outlines the relevant considerations for zoning land residential. The wording of this objective and policy is annexed at Appendix B.

[47] A shortfall in housing capacity was identified for the Peninsula in the short and medium-term, which includes the site. Any additional lots will contribute, in a small way, towards providing sufficient development capacity (in accordance with Policy 2.6.2.1.a) and will therefore assist in achieving Objective 2.6.2.

[48] In relation to the following parts of Policy 2.6.2.1, Mr Rawson considers that either the criteria are not relevant or applying a RTZ to the site will meet the relevant criteria in Policy 2.6.2.1 and will assist in achieving Objective 2.6.2:

(a) pressure for public infrastructure upgrades;
(b) proximity to services;
(c) rural character / visual amenity;
(d) economic productivity;
(e) natural landscapes and natural coastal character and access to the coast and waterbodies;
(f) aesthetic appreciation of the city; and
(g) compact city.

[49] The significant indigenous biodiversity on the site will now be protected, with non-complying resource consent required for indigenous vegetation clearance within the protected area, except in strictly defined circumstances. Mr Rawson therefore considers that the proposed RTZ and subsequent rezoning meets

Objective 2.2.3 and Policy 2.2.3.6.

[50] The consent memorandum replicates the structure plan provisions in the second Geotechnical JWS, with minor amendments to ensure compliance with the DCC style. In summary the geotechnical requirements are:

(a) residential buildings must be located outside the geotechnical no-build area marked on Figure 15.8.ASA; and
(b) detailed special information requirements within a geotechnical investigation report for any applications for earthworks, subdivision activities, multi-unit development or other development of residential units within the structure plan mapped area.

[51] With these geotechnical requirements, Mr Rawson now considered that the proposed RTZ and subsequent rezoning meets Objective 2.2.1, Policy 2.2.1.8 and Objective 11.2.1, because these requirements ensure that the risk from natural hazards is low.

[52] Regarding the effects on the transport network and accessibility, Mr Rawson identifies that the structure plan rule is in accordance with the Transport JWS and is supported by DCC Transport. Therefore, in his views, applying a RTZ to the site and subsequent rezoning will meet the relevant criteria in Policy 2.6.2.1 and will assist in achieving Objective 2.6.2.

[53] Mr Rawson considers 2GP is consistent with the requirements of the NPS-IB, implements the partially operative Otago Regional Policy Statement and has considered the proposed Otago Regional Policy Statement 2021, and the agreement reached is consistent with the provisions within these higher order documents.

Consideration

[54] Mr Rawson has satisfied us that the amendments proposed will achieve the

objectives and associated policies of the 2GP and higher order documents, and there is no overlap between appeals that would prevent this consent order being issued.

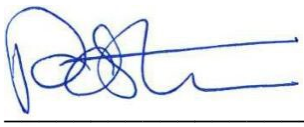
[55] The parties advise that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

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

Outcome

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

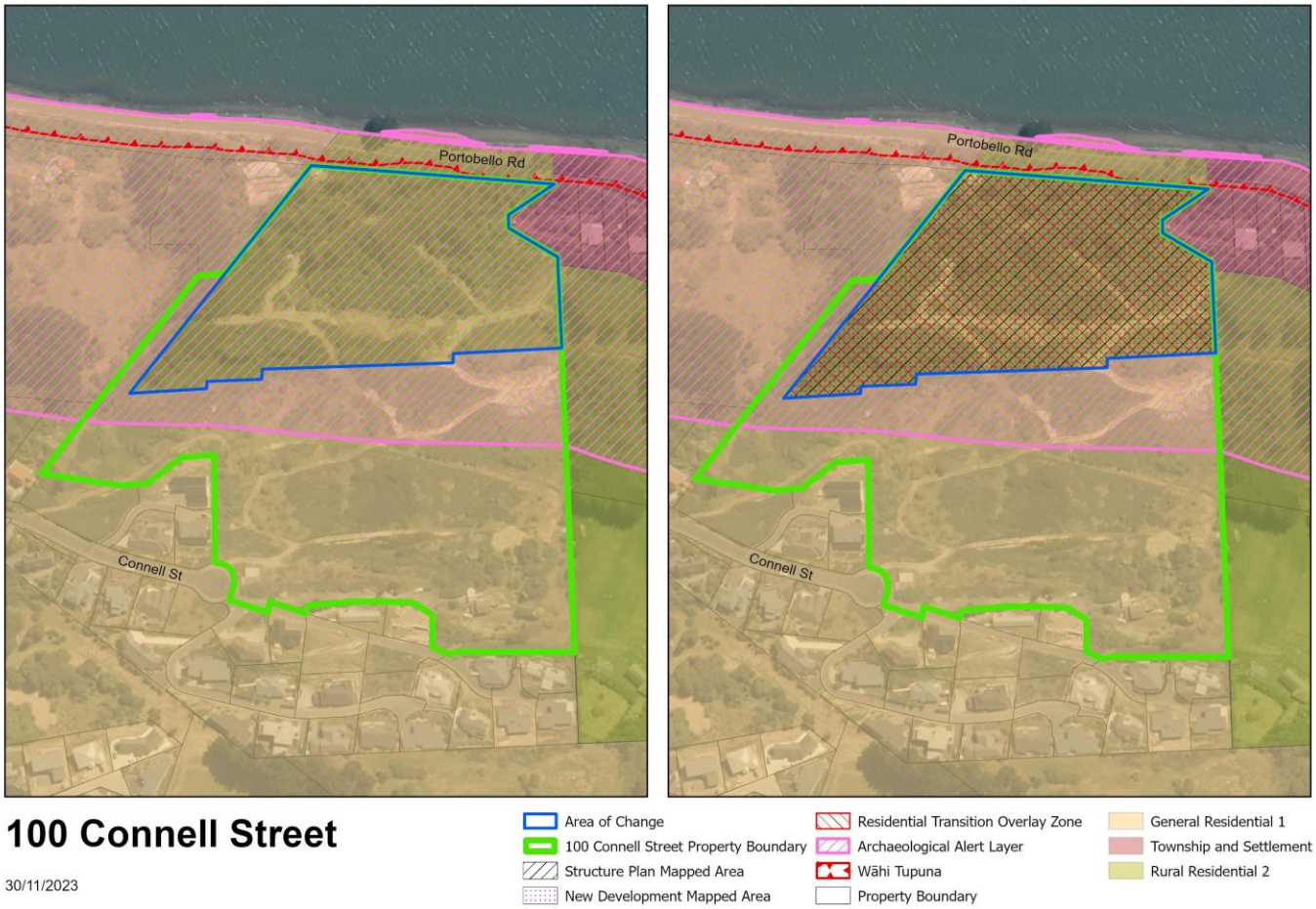
For the court:



P A Steven
Environment Judge

Appendix A

1. Amend the 2GP Planning Map for the northern part of 100 Connell Street, Dunedin to add a new Connell Street Structure Plan Mapped Area, a new development mapped area and a new 'Residential Transition Overlay Zone' (RTZ), as shown below:



2. Add to Appendix 12A. Residential Transition Zones, as follows:

RTZ Name	Existing Zone	Transition Zone
Connell Street	Rural Residential 2	General Residential 1

3. Add to Appendix 12C. New Development Mapped Areas, as follows:

NDMA Name	Description
Connell Street	Connell Street / Portobello Road, The Cove.

4. Amend Rule 15.8 Structure Plan Mapped Area Performance Standards by adding new Rule 15.8.AS Connell Street Structure Plan Mapped Area Rules, as follows:

15.8.AS Connell Street Structure Plan Mapped Area Rules

15.8.AS.1 Application of structure plan mapped area rules

a. Rules 15.8.AS.2 to 15.8.AS.5 do not apply to land within the **Connell Street structure plan mapped area** until such time as the RTZ applying to the part of the land under consideration has been released in accordance with Rule 12.3.1.

15.8.AS.2 Development performance standards

a. Building location
   i. Residential buildings must be located outside the geotechnical no-build area marked on Figure 15.8.ASA.
   ii. Activities that contravene this performance standard are non-complying activities.
b. Vegetation clearance
   i. Indigenous vegetation clearance must not occur in the area of indigenous vegetation marked “Restricted development area (biodiversity)” in Figure 15.8.ASA, except for indigenous vegetation clearance that is:
      1. part of conservation activity involving vegetation clearance and replacement with indigenous species;
      2. clearance for the maintenance of fences (including gates);

3. clearance for the maintenance (but not extension) of existing network utilities, irrigation infrastructure, tracks, drains, structures, roads, or firebreaks;
4. clearance that is consistent with or provided for as part of a conservation management strategy, conservation management plan, reserve management plan or covenant established under the Conservation Act 1987 or any other Act specified in the First Schedule of the Conservation Act 1987;
5. clearance that is required to remove material infected by unwanted organisms as declared by Ministry for Primary Industries' Chief Technical Officer, or to respond to an emergency declared by the Minister for Primary Industries under the Biosecurity Act 1993;
6. clearance of a pest plant listed in Appendix 10B to Section 10 of the Plan; and
7. clearance that is necessary to maintain the flow of water free from obstruction or for natural hazard mitigation activities.

ii. Indigenous vegetation clearance that contravenes this performance standard, where the clearance is for the installation of new stormwater or wastewater infrastructure, is a discretionary activity and will be assessed in accordance with Rule 10.7.2.1.

iii. Indigenous vegetation clearance that contravenes this performance standard, where the clearance is for any other purpose, is a non-complying activity.

15.8.AS.3 Subdivision performance standards

a. Access

i. Subdivision activities must provide a suitably designed and formed road or private accessway which provides access to all resultant sites for pedestrians, cyclists and vehicles and which meets all of the following criteria:

1. any private accessway (including any part of the accessway that is located outside the structure plan mapped area) serves no more than 12 residential sites in total;
2. any private accessway has a maximum gradient of 1 in 5, and any part of the accessway that has a gradient steeper than 1 in 6 is sealed with anti-skid surfacing;
3. any road has a maximum gradient of 1 in 6; and

4. any road or private accessway that provides access from Portobello Road:
    1. is a priority intersection (with a give way or stop sign) at Portobello Road; and
    2. if entering from the Portobello Road frontage of 100 Connell Street (Lot 31, DP 333454), enters the structure plan mapped area at the 'intersection location' identified in Figure 15.8.ASA.

ii. Activities that contravene this performance standard are non-complying activities.

iii. For the sake of clarity, this performance standard is additional to Rule 6.8.1.

Note 15.8.AS.3A – Other relevant District Plan provisions

1. New roads or additions or alterations to existing roads require resource consent under Rule 6.3.2.2 or Rule 6.3.2.3, as relevant.
2. All new vehicle accesses must comply with the performance standards in Rule 6.6.3, which include Rule 6.6.3.2 'Minimum sight distance from a vehicle access'.

15.8.AS.4 Special information requirement: Geotechnical investigation report

a. Applications for earthworks, subdivision activities, multi-unit development or other development of residential units within the **structure plan mapped area** must include a geotechnical investigation report prepared by a suitably qualified geotechnical consultant, unless such a plan has already been approved as part of an earlier subdivision or land use consent. The geotechnical report must examine the ground stability over the entire **structure plan mapped area** and identify areas suitable for safe building platforms and must be prepared in accordance with Rule 8A.9.1 Geotechnical investigation report. This investigation must also include the following matters:
    i. Review of any proposed subdivision/earthworks drawings to plan the scope of necessary geotechnical investigation, analysis and design work. This may require civil 3D modelling to confirm access alignment and cut heights;
    ii. Review of previous geotechnical reports on the site to assist with determining the scope of work;

iii. Investigations to identify spring flows, focused surface flows and shallow perched groundwater and a model to document the surface and groundwater characteristics of the site;

iv. Cored boreholes (at least 2-3 holes but depending on proposed earthworks extents) must be carried out to approximately 15 m deep and install piezometers, including at the location of the deepest designed road cuttings;

v. Pilot excavations or test pits must be carried out at appropriate locations along the proposed accessways, and particularly over the lower extents where shallow landslips occur, to enable detailed logging of overburden composition/thickness and rock mass characteristics of the bedrock;

vi. Further general test pitting must be carried out at likely future residential building sites;

vii. Numerical slope analysis must be undertaken for cut and fill slopes, based on borehole and test pit data to provide design advice on any necessary slope support structures or measures, including:

    1. the assessment and mitigation of any impacts that the altered landforms might have on the subject land or on neighbouring land; and
    2. the local stability of the individual batters must be considered at the detailed design and construction phases and localised stabilisation works, e.g. soil nailing and shotcrete of the tuff and localised rock bolting of the basalt, shall be carried out if required.

viii. Provide a full geotechnical investigations report to cover the above (Rule 15.8.AS.4.a.i-vii), with advice on all relevant geotechnical inputs required to ensure that any hazard risks are reduced to no more than low. This advice must include, but not be limited to, advice on:

    1. any specific engineering design inputs that are required to progress the necessary geotechnical engineering mitigation measures for the activity, and to ensure the stability of pavements, upslope cuts and neighbouring land; any rock slope support measures (e.g. anchoring, meshing, catch fences etc) that may be required; and any other inputs (e.g. civil engineering, structural engineering, specialist contractors etc.) that may be required to achieve the necessary mitigation measures.
    2. necessary groundwater and surface water control measures (possible examples are: cut-off trench drains, counterfort drains, spring flow capture and piping from

site); treatment of stormwater mains which appear to currently discharge on the slopes below Connell Street; any civil engineering inputs that may be required to achieve the necessary surface and groundwater control; any measures required to prevent triggering of slope instability by slope saturation or to prevent concentrated water flows that may impact adjacent landowners; and recommendations for management of existing scarps (i.e. regrading, drainage).

3. requirements for construction monitoring by geotechnical specialists for the earthworks, drainage, pavements and slope support solutions; measures to ensure overburden soils are prevented from becoming saturated and that earthworks associated with development are managed appropriately; and constructability issues or constraints such as excavation methods.
4. mitigation of safety issues during construction, such as rock roll and protection of neighbouring land, particularly Portobello Road.
5. any geotechnical requirements that will be necessary for individual residential lots at the building consent stages, including but not limited to:
    1. site specific geotechnical investigations prior to development of each individual lot,
    2. compliance with all applicable geotechnical residential codes (such as NZS 3604 and NZS 4431); and
    3. any specific engineering design requirements;
    4. adequate connection of foundations to bedrock;
    5. permanent/temporary slope support measures during construction; measures to prevent damage to neighbouring sites; and
    6. management of water runoff or spring flows if applicable.

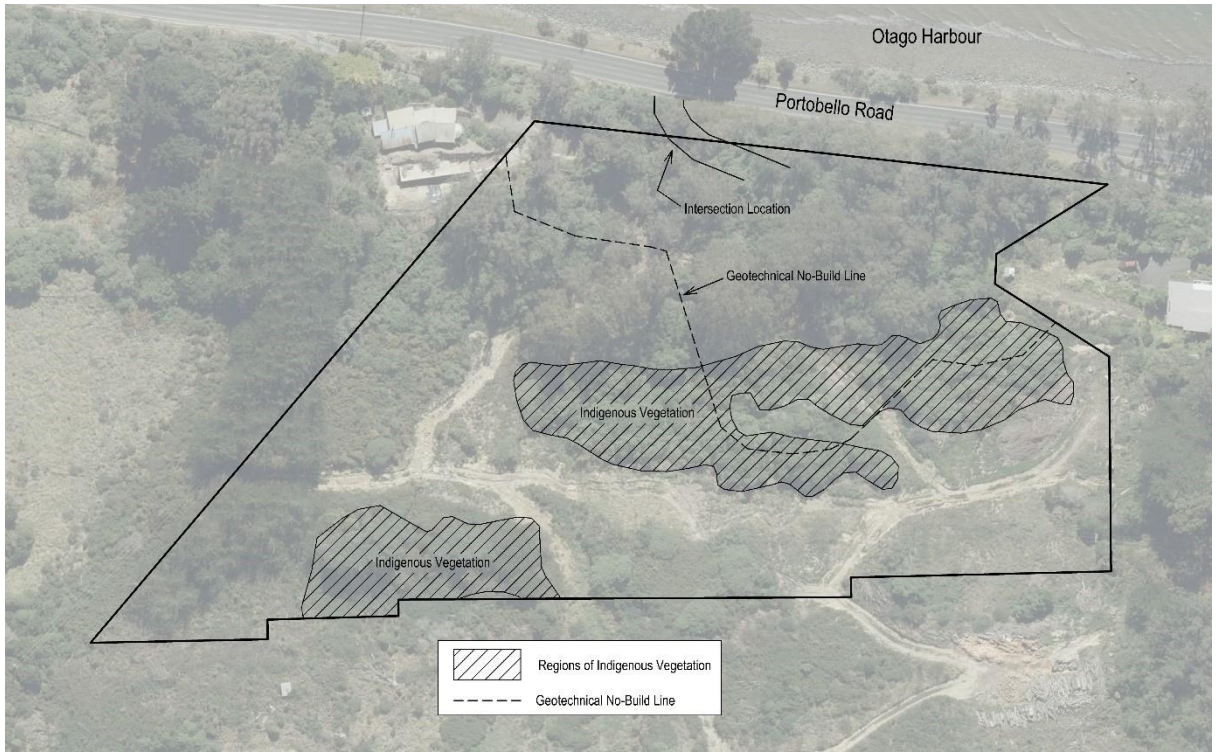
15.8.AS.5 Assessment guidance

a. In addition to assessment guidance for subdivision provided in Rule 15.11.4 the following guidance is provided for the assessment of subdivision activities within the **structure plan mapped area**.

General assessment guidance

b. In assessing effects on risk from natural hazards, Council will consider the geotechnical investigation report submitted with the application (as required by Rule 15.8.AS.4) and the findings of the on-site investigations required by this report.

Figure 15.8.ASA: Connell Street structure plan



5. 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.

Appendix B

Objective 2.6.2

Dunedin provides sufficient, feasible, development capacity (as intensification opportunities and zoned urban land) in the most appropriate locations to at least meet 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.

Policy 2.6.2.1

Identify areas for new residential zoning 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; 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 provisions 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, facilities and infrastructure that are important for economic productivity and social well-being, which include industrial areas, major key 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 and infrastructure, are able to be operated, maintained upgraded and, where appropriate, developed, 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 connection 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, and from the potential effects of climate change on natural hazards, 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 (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 location (Objective 2.2.4).