

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

**Decision No. [2022] NZEnvC 207**

IN THE MATTER of the Resource Management Act 1991

AND appeals under clause 14(1) of the First  
Schedule of the Act

BETWEEN A REID AND H EVANS

(ENV-2018-CHC-261)

JAMES LIN LIMITED

(ENV-2018-CHC-263)

R B AND S O CHIN

(ENV-2018-CHC-268)

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 October 2022

---

**CONSENT ORDER**

---

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



- (1) the appeals are allowed subject to the changes shown in Appendix 1 being made;
- (2) the parts of the appeals by A Reid and H Evans (DCC Reference numbers 179 and 365), R B and S O Chin (DCC Reference number 176) and James Lin Limited (DCC Reference numbers 116 and 117) are resolved and the appeals are otherwise dismissed.

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

## **REASONS**

### **Introduction**

[1] This proceeding relates to appeals by Mr A Reid and Ms H Evans, James Lin Limited and RB and SO Chin on the zoning under the proposed Second Generation District Plan ('2GP') for the land bounded by Hagart-Alexander Drive, Gladstone Road North and Wingatui Road, located between Mosgiel and Wingatui.

[2] I have read and considered the consent memorandum of the parties dated 12 October 2022, which detail the agreement reached by the parties to resolve this appeal.

[3] I have also read and considered the affidavit of Mr P B Rawson, affirmed on 12 October 2022. Mr Rawson has satisfied me that the amendments sought are appropriate and consistent with achieving the relevant objectives of 2GP, and that granting the relief sought will not impact on the resolution of any other proceeding.<sup>1</sup>

---

<sup>1</sup> Affidavit of P B Rawson affirmed 12 October 2022 at [83], [98] and [100].

### **Other relevant matters**

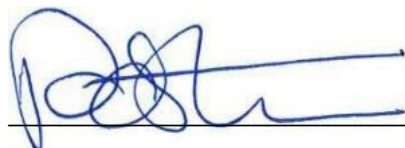
[4] Otago Regional Council have given notice of an intention to become a party under s274 of the Resource Management Act 1991 ('RMA' or 'the Act') and have signed the memorandum setting out the relief sought.

[5] 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.

[6] The parties agree that costs should lie where they fall.

### **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.

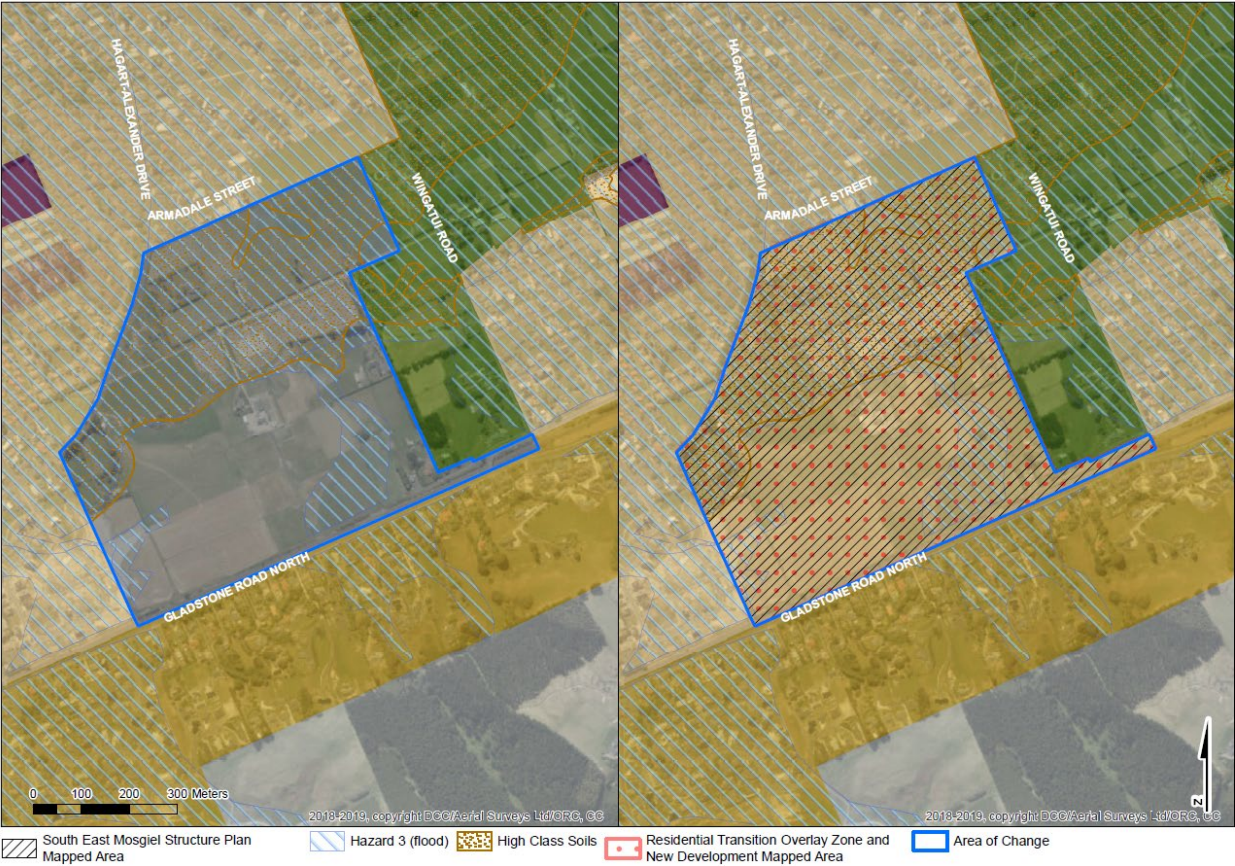


**P A Steven**  
**Environment Judge**



**Appendix 1**

- 1 Amend the 2GP Planning Map for 66, 76 and 100 Hagart-Alexander Drive, 67B and 153 Gladstone Road North and 43, 47 and 51 Wingatui Road, to apply a Residential Transition Overlay Zone and add a South East Mosgiel structure plan mapped area, and a new development mapped area, as follows:



- 2 Amend Rule 8A.5.8 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. ...

Y. ...

AA. the **South East Mosgiel structure plan mapped area**.

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

- 3 Amend Rule 12.3.1 Release of land in the Residential Transition Overlay Zone (RTZ) as follows:

**Rule 12.3.1 Release of Land in the Residential Transition Overlay Zone (RTZ)**

1. In a Residential Transition Overlay Zone (RTZ), other than the RTZ listed in Rule 12.3.4, the provisions of the specified future residential zone will apply to any part of that zone that is "released" by the Chief Executive Officer or their delegate certifying that the requirements in Rule 12.3.1.2 (b) and (c) are met.

2. ...

- 4 Add a new Rule 12.3.4 Release of RTZ in structure plan mapped areas

**Rule 12.3.4 Release of RTZ in Structure Plan Mapped Areas**

**Rule 12.3.4.1 Release of land in the South East Mosgiel Residential Transition Overlay Zone (RTZ)**

- a. In the South East Mosgiel Residential Transition Overlay Zone, the provisions of the specified future residential zone will apply to any part or all of that zone that is "released" by the Chief Executive Officer or their delegate certifying that the requirements below are met.
- b. The Chief Executive Officer or their delegate must certify to release land in the South East Mosgiel Residential Transition Overlay Zone following receipt of an application demonstrating all of the following criteria have been met:

- i. An Integrated Transportation Assessment (ITA) for the **structure plan mapped area** is completed; and
  1. Where transportation infrastructure required by the ITA or the structure plan provisions for the site requires DCC funding or a cost-sharing agreement that requires DCC involvement, there is provision for that in the Long Term Plan and Development Contributions Policy, or there is an agreement between the DCC and landowners/developers of sites proposed for release on the method, timing, and funding of the transportation infrastructure identified in the ITA, or both.
  
- ii. A high level stormwater management plan developed in consultation with the Otago Regional Council that (but not involving detailed subdivision design) addresses the requirements of the integrated stormwater management plan required by Rule 9.9.X.4 and that indicates all land that will be required to be set aside for stormwater management based on the level of development allowed and including land necessary to manage overland flows and to retain existing on-site storage;
  1. Where the stormwater management plan requires DCC funding or a cost-sharing agreement for stormwater infrastructure that requires DCC involvement, there is provision for that in the Long Term Plan and Development Contributions Policy, or there is an agreement between the DCC and landowners/developers of sites proposed for release on the method, timing, and funding of the stormwater infrastructure identified in the stormwater management plan, or both.
  2. Where the stormwater management plan requires stormwater to be directly or indirectly discharged to the Owhiro Stream or to any work, system or facility owned or operated by the Otago Regional Council, there is an agreement in place between the applicant landowner and the Otago Regional Council in relation to the terms on which the Otago Regional Council will accept the receipt of the stormwater discharge.
  
- iii. An open space and amenity planting plan for the entire **structure plan mapped area** that must at a minimum provide for:

1. street trees in road reserves and planting associated with the esplanade reserve adjacent to Owhiro Stream; and
  2. a 5000m<sup>2</sup> recreation reserve in a location that:
    1. is located outside of areas used for stormwater or flood management or storage;
    2. as close as practicable considering other requirements and other reserves in the wider area, allows residential activities in and adjacent to the **structure plan mapped area** to have access to an open space reserve within a 400m walking radius of their homes;
    3. has frontages of no less than 80m onto at least two road frontages, and
    4. adjoins or links to the esplanade reserve on the Owhiro Stream.
- iv. Where implementation of the required open space and amenity planting plan requires DCC funding or a cost-sharing agreement that requires DCC involvement, there is provision for that in the Long Term Plan and Development Contributions Policy, or there is an agreement between the DCC and landowners/developers of sites proposed for release on the method, timing, and funding of the delivery of the open space and amenity planting plan, or both

#### **Note 12.3.4.1A – General advice**

- i. Where the results of the Integrated Transportation Assessment required to release the land demonstrate the need for either:
  1. transportation infrastructure upgrades outside the **structure plan mapped area**; or
  2. 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.
  3. 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.
- ii. Prior to initiating work on an Integrated Transportation Assessment, applicants are encouraged to contact DCC City Development for the latest information regarding the status of

the South East Mosgiel Residential Transition Zone Overlay (RTZ), and remaining requirements.

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

RTZ Name	Existing Zone	Transition Zone
<u>South East Mosgiel</u>	<u>Rural Taieri Plain</u>	<u>General Residential 1</u>

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

NDMA Name	Description
<u>South East Mosgiel</u>	<u>Land bounded by Hagart-Alexander Drive, Gladstone Road North and Wingatui Road</u>

- 7 Amend the title of Rule 15.8 Structure Plan Mapped Area Performance Standards as follows:

**Rule 15.8 Structure Plan Mapped Area ~~Performance Standards~~ Rules**

- 8 Amend Rule 15.8 Structure Plan Mapped Area Rules by adding new Rule 15.8.AH South East Mosgiel Structure Plan Mapped Area Rules, as follows:

**Rule 15.8.AH South East Mosgiel Structure Plan Mapped Area Rules**

**15.8.AH.1 Application of this performance standard**

This performance standard does not apply to land within the South East Mosgiel 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 12.3.4.1.

**15.8.AH.2 Subdivision performance standards**

**a. Roading connections**

- i. **Subdivision activities in the South East Mosgiel structure plan mapped area must enable and provide for access through the structure plan mapped area for, pedestrians, cyclists and vehicles, such that all sites within the structure plan mapped area will or can have (after future stages are completed):**

- a. **a minimum of four external road connections from the structure plan mapped area to: Owhiro Avenue, Hagart-Alexander Drive,**



Wingatui Road and the Highland Park subdivision (Lochinvar Street or Armadale Street); and

- b. a minimum of one road connection between Hagart-Alexander Drive and Wingatui Road that will include an alignment and space for buses to travel and stop; and
  - c. a design which provides for a potential second road connection to Wingatui Road should the current rural residentially zoned land between the **structure plan mapped area** and Wingatui Road be rezoned in future.
- ii. Subdivision activities that do not meet this performance standard are non-complying activities.

### **15.8.AH.3 Information requirements**

- a. Geotechnical investigation report
  - i. Applications for subdivision activities, multi-unit development or supported living facilities must include a geotechnical investigation report prepared by a suitably qualified geotechnical consultant. The geotechnical report must examine the ground stability over the entire area and identify areas suitable for building platforms, considering the risk to people, buildings and associated infrastructure from earthquake, including from the Titri Fault shown crossing the **structure plan mapped area**, as described in the GNS Science Consultancy Report 2020\88, dated April 2021. Applications that are in accordance with a previously prepared geotechnical report will generally be exempt from this requirement, unless newer hazards information is available that may make the previous assessment incomplete.

### **15.8.AH.4 Assessment guidance**

- a. In addition to assessment guidance for subdivision provided in rules 15.11.4 and 6.11.2 the following guidance is provided for the assessment of subdivision activities within the **South East Mosgiel structure plan mapped area**.

#### General assessment guidance

- b. In assessing effects on the safety and efficiency of the transport network, Council will consider the Integrated Transport Assessment (ITA) submitted with the application to release the land, but may also require additional transportation assessment information if necessary to assess the potential effects of any subdivision or land use application.

- c. 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.AH.3.).
- d. In assessing the requirements for the provision of amenity planting, public amenities and recreation spaces in a **new development mapped area** (Rule 12.X.2.5.b and Rule 12.X.2.5.c), Council will consider the open space and amenity planting plan required by Rule 12.3.4.1.b.v.

Conditions that may be imposed include:

- a. A requirement that, prior to the vesting in DCC of the roads linking to Owhiro Avenue, Hagart-Alexander Drive, Wingatui Road and the Highland Park subdivision (Lochinvar Street or Armadale Street), these roads are constructed to a suitable standard commensurate with their intended use, in accordance with the Dunedin Code of Subdivision and Development 2010 or New Zealand Standard 4404:2010.
  - b. A requirement that any required upgrades identified by the ITA be completed prior to a particular stage in the subdivision.
  - c. Requirements for water saving devices including but not limited to, low-flow shower heads, 6/3 dual flush toilets and aerated sink mixers to be required through an appropriate legal mechanism.
- 9 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.

Figure 15.8.AH: South East Mosgiel structure plan

