

**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 BEN PONNE

(ENV-2018-CHC-260)

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: 16 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 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 part of the appeal concerning the zoning of 58 and 73 Reservoir Road, allocated DCC reference number 151 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 Ben Ponne against the decision of the Dunedin City Council approving the proposed Dunedin City Second Generation Plan (“2GP”). The appeal relates to the zoning of 58 and 73 Reservoir Road.

[2] I have read and considered the consent memorandum of the parties dated 31 May 2021 which details the agreement reached by the parties to resolve the appeal. The agreement reached involves rezoning 58 and 73 Reservoir Road from Coastal Rural Zone to Rural Residential 2 Zone, the addition of a ‘Porteous Road Landscape Building Platform Mapped Area’ over 73 Reservoir Road, new landscape building platform mapped area performance standards and consequential amendments to the definition of ‘landscape building platform’.

[3] I have also read and considered the affidavit of Ms James who has satisfied me that the proposed amendments sought to resolve this appeal are appropriate and granting the relief sought will not impact on the resolution of any other proceeding.¹

Other relevant matters

[4] Otago Regional Council gave notice of an intention to become a party under s274 of the Resource Management Act 1991 and has signed the memorandum setting out the relief sought.

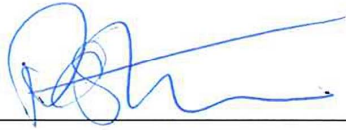
¹ Affidavit of Katie Emma Sunley James affirmed 2 June 2021 at [49]-[53].

[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. Based on the information before me, 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

Amendments

Amend 2GP planning map to change the zoning of 58 and 73 Reservoir Road (shown as the 'area of change' in Figure 1) from Coastal Rural to Rural Residential 2, and to apply the landscape building platform mapped area over 73 Reservoir Road, as shown in Figure 1.

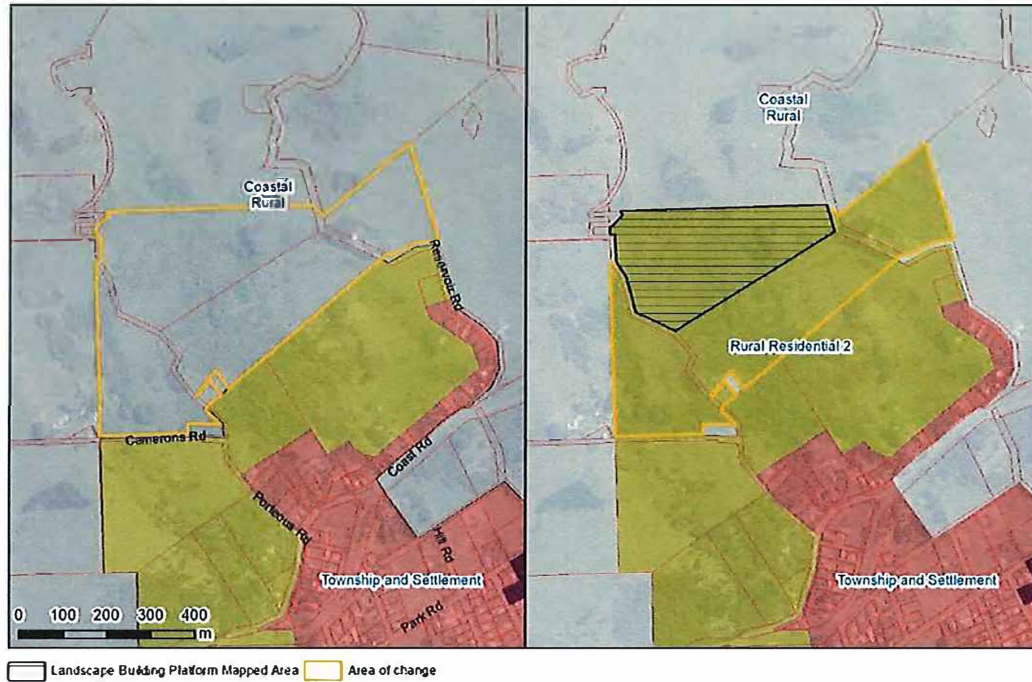


Figure 1: Map showing the current and agreed zoning of 58 and 73 Reservoir Road

Add new 'landscape building platform mapped area' performance standards in Section 17 as shown below:

Rule 17.X Landscape Building Platform Mapped Area Performance Standards

17.X.1

- a. In addition to the performance standards in 17.5, 17.6 and 17.7 and any relevant overlay zones or mapped areas, activities in a **landscape building platform 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 17.5, 17.6 or 17.7, the standard in this section supersedes that standard.

17.X.X Porteous Road Landscape Building Platform Mapped Area Performance Standards

- All buildings must be located within the area marked A (landscape building platform) on the **Porteous Road landscape building platform mapped area** (see Figure 17.X.X).

2. Driveways must be provided from Porteous Road (marked B in Figure 17.X.X).
3. Activities that contravene this performance standard are non-complying activities.



Figure 17.X.X: Porteous Road Landscape Building Platform Plan Mapped Area

Note 17.X.XA Other Relevant District Plan Provisions

1. As the **Porteous Road landscape building platform mapped area** is within a **Significant Natural Landscape Overlay Zone**, additional rules apply. Resource consent for a controlled activity is required for new buildings greater than 60m² footprint on a landscape building platform (Rule 17.3.4.3.c). In addition to the performance standards for development activities in rural residential zones, activities must also comply with Rule 10.3.5 Number and Location of Permitted Buildings and Rule 10.3.6 Reflectivity.

Consequential Amendments

Amend definition of landscape building platform:

Landscape Building Platform

For the purposes of rules 16.3.4.3 and 17.3.4.3 in this plan, a landscape building platform is an approved building site that has is:

- a. ~~been~~ registered on the title by way of a consent notice as part of an approved subdivision resource consent process, or
 b. referred to in a **landscape building platform mapped area** performance standard.

Insert the following into Section 17 (Rural Residential zones) development activity status table:

17.3.4.1.x **Landscape building platform mapped area** performance standards (where relevant)

Amend Rule 17.12.6 Assessment of non-complying performance standard contraventions, as follows:

x	<u>Landscape building platform mapped area performance standards</u>	<p><i>Relevant objectives and policies (priority considerations):</i></p> <p>a. <u>Objective 10.2.5</u></p> <p>b. <u>Any adverse effects on landscape values, as identified in Appendix A3, are avoided or, if avoidance is not practicable:</u></p> <p>1. <u>no more than minor, or</u></p> <p>2. <u>where there are no practicable alternative locations, adequately mitigated (Policy 10.2.5.9).</u></p>
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Make any changes to plan numbering required.

