

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

Decision No. [2022] NZEnvC 166

IN THE MATTER of the Resource Management Act 1991

AND an appeal under Clause 14 of the First
Schedule to the Act

BETWEEN P A ALLEN, R G ALLEN,
A MCSKIMMING & A WATSON

(ENV-2018-CHC-226)

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: 30 August 2022

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 to amend the provisions of the proposed Dunedin City Second Generation District Plan as set out in Appendix 1, attached to and forming part of this order;



- (2) the appeal by Allen & Others (DCC Reference number 15) is resolved by this order;
- (3) 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 the appeal by Allen & Others (DCC reference number 15) on the zoning of properties at 270 Blackhead Road and 261 Green Island Bush Road, Dunedin, in the proposed Second Generation District Plan ("2GP").

[2] I have read and considered the consent memorandum of the parties dated 8 August 2022 and the affidavit of Katie Emma Sunley James affirmed on 25 August 2022.

[3] The memorandum of the parties summarises the agreement reached between the parties as follows:

- (a) rezoning 270 Blackhead Road and the rural zoned part of 261 Green Island Bush Road from Coastal Rural to Rural Residential 1, subject to a structure plan mapped area overlay;
- (b) new structure plan mapped area performance standards relating to:
 - (i) a requirement that subdivision activities must not create more than 10 resultant sites within the structure plan mapped area;
 - (ii) requirements around access for vehicles onto Blackhead Road and Green Bush Road; and
 - (iii) a requirement for a geotechnical investigation report for subdivision activities.

[4] Ms James has satisfied me that the agreement reached between the parties above is appropriate and consistent with achieving the relevant objectives of the 2GP.

[5] 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 the consent order and other appeals before the court.

[6] Ms James has assessed the other appeals on decisions on 2GP and advises that there is no overlap between appeals that would prevent a consent order from being issued. In addition, Ms James says that no appeal on 2GP has the potential to amend the policy framework of 2GP in a way that would change their assessment of the changes set out in the memorandum.¹

Other relevant matters

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

[8] For completeness, I record the parties' attestation 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.

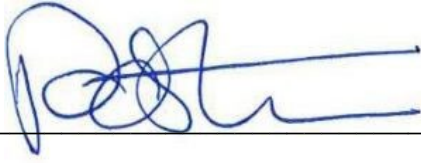
[9] The parties agree costs should lie where they fall and accordingly no order for costs is sought.

Outcome

[10] 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

¹ Affidavit of K E S James affirmed 25 August 2022 at [78]-[79].

will promote the purpose of the Act so I will make the orders sought.



P A Steven
Environment Judge



Appendix 1

- 1 Amend 2GP planning map to change the zoning at 270 Blackhead Road and the rural part of 261 Green Island Bush Road from Coastal Rural Zone to Rural Residential 1 Zone, and apply a structure plan mapped area as shown below.



- 2 Add a new Rule 17.Y.Y to Rule 17.Y Structure Plan Mapped Area Performance Standards, as follows:

17.Y.Y.Green Island Bush Road Structure Plan Mapped Area Performance Standards

17.Y.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 17.Y.Y.3 limits the maximum number of sites in the **structure plan mapped area**).
- ii. One family flat is allowed per site in association with a standard residential activity that meets this performance standard for density.

- iii. Activities that contravene this performance standard are non-complying activities.
- iv. For the sake of clarity, this performance standard supersedes Rule 17.5.2.

17.Y.Y.2 Development performance standards

- a. Maximum number of vehicle crossings
 - i. The maximum number of vehicle crossings permitted within the **structure plan mapped area** is:
 - i. three on the Blackhead Road frontage
 - ii. three on the Green Island Bush Road frontage
 - ii. For the sake of clarity, the maximum number of vehicle crossings includes all existing and proposed vehicle crossings.
 - iii. Activities that contravene this performance standard are non-complying activities.
 - iv. For the sake of clarity, this performance standard supersedes Rule 6.6.3.1

17.Y.Y.3 Subdivision performance standards

- a. Access
 - i. No more than three sites within the **structure plan mapped area** may have access for vehicles onto Blackhead Road.
 - ii. Activities that contravene this performance standard are non-complying activities.
 - iii. For the sake of clarity, this standard is additional to Rule 17.7.1.
- b. Maximum number of sites
 - i. Subdivision activities must not result in more than 10 sites within the **structure plan mapped area**.
 - ii. Resultant sites created and used solely for the following purposes are exempt from this standard:
 - 1. Scheduled ASBV or QEII covenant;
 - 2. reserve;
 - 3. access;
 - 4. network utilities; or
 - 5. road.
 - iii. Activities that contravene this performance standard are non-complying activities.
 - iv. For the sake of clarity, this standard is additional to Rule 17.7.5.

17.Y.Y.4 Information requirements

- a. Geotechnical investigation report
 - i. Applications for subdivision activities in the **structure plan mapped area** must include a comprehensive geotechnical investigation report by a suitably qualified geotechnical consultant.

The geotechnical report must examine the ground stability over the entire area and identify areas suitable for development and, if required, suitable building platforms, and any areas where development, including earthworks, should be restricted.

Figure 17.Y.Y: Green Island Bush Road structure plan mapped area



- 3 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.

