

IN THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY

ENV-2018-CHC-000291

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of appeals under Clause 14(1) of the First
Schedule of the Act in relation to the
Proposed Second-Generation Dunedin City
Plan

BETWEEN **BP OIL NEW ZEALAND LIMITED, MOBIL
OIL NEW ZEALAND LIMITED AND Z
ENERGY LIMITED**

Appellant

AND **DUNEDIN CITY COUNCIL**

Respondent

**NOTICE OF WISH TO BE
PARTY TO PROCEEDINGS PURSUANT TO
SECTION 274 RESOURCE MANAGEMENT ACT 1991**

To: The Registrar

Environment Court

Christchurch

1. Horticulture New Zealand ("**HortNZ**") wishes to be a party pursuant to section 274 of the Resource Management Act 1991 ("**RMA**") to the following proceedings:
 - (a) *BP Oil New Zealand limited, Mobil Oil New Zealand Limited and Z Energy Limited (ENV-2018-CHC-000291)* being an appeal against decisions of the Dunedin City Council on the Proposed Second-Generation Dunedin City Plan.
2. HortNZ made submissions and further submissions on the Proposed Second-Generation Dunedin City Plan (submission number 1090 and further submission number 2452).
3. HortNZ also has an interest in these proceedings that is greater than the general public as it represents interest groups in the community that are likely to be adversely affected by the proposed relief sought by the Respondent
4. HortNZ is not a trade competitor for the purposes of section 308C or 308CA of the RMA.
5. The parts of the proceedings HortNZ is interested in are:
 - (a) Strategic Directions Policy 2.2.6.2 (Appeal point 13)
 - (b) Policy 9.2.2.11 (Appeal point 14)
 - (c) Rule 9.3.4 and A6 Hazardous substances quantity limits (Appeal point 16)
 - (d) National Environmental Standard for assessing and managing contaminants in soil to protect human health (NESCO) (Appeal point 15)

- (e) Definition of reverse sensitivity (Appeal point 18)
- (f) Strategic infrastructure and network utilities (Appeal point 23)

6. The particular issues and whether HortNZ supports, opposes or conditionally opposes the relief sought are set out in the attached table.

7. HortNZ agrees to participate in mediation or other alternative dispute resolution of the proceedings.



Rachel McClung

Environmental Policy Advisor – South Island
Horticulture New Zealand

23 January 2019

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Advice

If you have any questions about this notice, contact the Environment Court in Christchurch.

Provision Appealed by BP Oil and Others	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
Strategic Directions Policy 2.2.6.2 (Appeal point 13)	OS1090.22, 23,24	Support in part	The decisions add new objectives and policies to Chapter 2 Strategic Directions 2.2.6 which were omitted from the notified plan. The decision states that have been added as a minor change. HortNZ submitted on the notified hazardous substances provisions but did not have an opportunity to submit on Objective 2.2.6 and Policies 2.2.6.1 and 2.2.6.2 as they were not notified. HortNZ supports deleting 2.2.6.2 or amending to ensure that the approach provides for reliance on HSNO provisions for management of hazardous substances
Policy 9.2.2.11 (Appeal point 14)	OS1090.24 FS2452.25 on OS634.17Oil Company submission	Support	HortNZ sought changes to Policy 9.2.2.11 and supported changes sought by the Oil Companies to the policy to provide a better balance in the policy. The changes sought by the Appellant to Policy 9.2.2.11 are consistent with the changes HortNZ supported.
Rule 9.3.4 and A6 Hazardous substances quantity limits (Appeal point 16)	OS1090.24 and OS1090.40 FS2452.27 on OS807.49 by Fonterra FS2452.30 on OS85.2 by LPG Assoc	Support	HortNZ made submissions and further submissions supporting an approach to management of hazardous substances that relied on HSNO unless there was a clear resource management reason that necessitates the inclusion of specific provisions. The Appellant seeks that the provisions in Rule 9.3.4 and Appendix A6 are removed and HSNO is relied on unless exceptional circumstances can be demonstrated through a robust s32 analysis for specific additional controls. HortNZ supports this approach to avoid duplication and ensure that hazardous substance management is appropriate for respective zones within the district.

Provision Appealed by BP Oil and Others	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
National Environmental Standard for assessing and managing contaminants in soil to protect human health (NESCS) (Appeal point 15)	FS2452.26 on OS634.58 by the Oil Companies	Support in part	HortNZ supported in part the submission by the Oil Companies to include a policy for the NESCS, however HortNZ sought to ensure that it is clear that not all rural land uses which disturb soil are managed under the NESCS. The Appellant seeks that an objective and policies are included in the Plan however the wording sought does not identify that disturbance of production land does not necessarily trigger the NESCS provisions, unless for purposes as set out in Clause 8 of the NESCS. Any policy that is included in the Plan should be clear about the scope of the regulations.
Definition of reverse sensitivity (Appeal point 18)	OS1090.8	Oppose in part	HortNZ supported retaining the notified definition of reverse sensitivity. The decision amends the definition as a result of OS1046.5 by Air New Zealand. The Appellant seeks the deletion of the definition or amendment consistent with the PRPS. HortNZ seeks that a definition for reverse sensitivity is retained in the Plan so it is clear how the term will be interpreted and implemented in the Plan.
Strategic infrastructure and network utilities (Appeal point 23)	FS2452.7 on OS918.22 by RadioNZ FS2452.13 on OS457.42 by Aurora Energy FS2452.12 on OS457.166 by Aurora Energy	Oppose in part Support in part	HortNZ opposed a number of submissions that sought protection for infrastructure and network utilities. The Appellant seeks recognition of strategic infrastructure including a new objective in Strategic directions. The decisions include a number of changes for infrastructure including the addition of Policy 2.3.1.7. HortNZ considers that such provisions recognise the importance of infrastructure while providing a balance for other land uses adjacent to such infrastructure.

Provision Appealed by BP Oil and Others	Scope for s274 (HortNZ submission point reference)	Support / Oppose	Reasons
			The Appellant also seeks to ensure that only bulk fuel facilities are included in the definition of network utilities, rather than all fuel storage, transmission and distribution facilities, as this would require all such facilities to comply with network utility rules. The wording of the clause in the definition of network utilities could include on-farm storage of fuel to which the network utility provisions would then apply. HortNZ supports the focus of the definition on bulk fuel facilities.