

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

Under the Resource Management Act 1991 (**RMA**)

In the matter of appeals under clause 14(1) of the First Schedule of the RMA
in relation to the proposed Second Generation Dunedin City
District Plan (**2GP**)

Between

B W Taylor & the Estate of Lawrence Taylor

ENV-2018-CHC-244

Federated Farmers of New Zealand

ENV-2018-CHC-254

Blueskin Projects Limited & Others

ENV-2018-CHC-238

Robert Francis Wyber

ENV-2018-CHC-281

The Preservation Coalition Trust

ENV-2018-CHC-285

Appellants

And

Dunedin City Council

Respondent

Memorandum of Counsel regarding Rural / Rural Residential Strategic Bundle

30 April 2021

Respondent's solicitor:

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**anderson
lloyd.**

May it please the Court

- 1 This memorandum is filed on behalf of Dunedin City Council (**Council**) to explain this bundle of consent memoranda that are filed following Court-assisted mediation for Group 1 appeals.
- 2 In this instance Council submits two consent memoranda to the Court for consideration to resolve part of the Rural / Rural Residential Strategic Topic.
- 3 Council requests that the Court consider and make determinations on the following attached consent memoranda in this order:
 - (a) Rural Strategic (B W Taylor & the Estate of Lawrence Taylor ENV-2018-CHC-244; Federated Farmers of New Zealand ENV-2018-CHC-254; Blueskin Projects Limited & Others ENV-2018-CHC-276) dated 10 March 2020 (DCC Reference numbers 10, 153, 154, 155, 156, 157, 159, 160, 163, 164, 166, 168, 170, 171, 189 and 196); and
 - (b) Rural Residential Strategic (Robert Francis Wyber ENV-2018-CHC-281; The Preservation Coalition Trust ENV-2018-CHC-285) dated 18 February 2021 (DCC Reference numbers 90, 91 and 376).
- 4 The appeals by Robert Francis Wyber (**Wyber**), The Preservation Coalition Trust (**PCT**), B W Taylor & the Estate of Lawrence Taylor (**Taylor**), Federated Farmers of New Zealand (**Federated Farmers**), and Blueskin Projects Limited & Others (**Blueskin**), relate to the Rural and Rural Residential Strategic provisions of the 2GP, including a Rural zone objective, and policies for Rural and Rural Residential zoning in the Strategic Directions section of the 2GP. Accordingly the consent memoranda set out in paragraph 3 above should be considered together as a related group of appeals, and best in the order listed above.

Affidavits and draft order

- 5 There is one affidavit from the Council Planning staff filed with these consent memoranda, addressing the background on the relevant 2GP planning framework and any policy direction from higher order documents (RPS or NPS) where relevant, the decision of the Hearings Panel and reasons, the scope for the changes in some cases, and provide an evaluation as required under section 32AA of the RMA. The affidavit is:
 - (a) Affidavit of Jane MacLeod affirmed 30 April 2021 regarding the appeals by Wyber, PCT, Taylor, Federated Farmers and Blueskin

(DCC Reference numbers 10, 90, 91, 153, 154, 155, 156, 157, 159, 160, 163, 164, 166, 168, 170, 171, 189, 196 and 376).

- 6 Also filed is a single draft order dealing with all appeals together. This attaches a single Appendix 1 that contains the relief sought in these memoranda in one place. It is respectfully requested that these consent memoranda are considered, and the orders sought are made, to resolve these appeals on this topic.

Consent memoranda relating to Objectives 2.3.1, 2.7.2 and 11.2.1

- 7 On 4 December 2020, Council filed the following three consent memoranda with the Court:
- (a) Consent memorandum (KiwiRail Holdings Limited ENV-2018-CHC-252) dated 22 September 2020;
 - (b) Consent memorandum (Otago Regional Council ENV-2018-CHC-290) dated 15 October 2020; and
 - (c) Consent memorandum dated 24 November 2020 (Transpower New Zealand Limited ENV-2018-CHC-252; Aurora Energy Limited ENV-2018-CHC-277) dated 24 November 2020.
- 8 On 14 December 2020, the Council filed a memorandum of counsel proposing that only some of the changes proposed in the consent memoranda be endorsed by the Court, with the remaining matters in the consent memoranda to be dealt with at a later date. A joint memorandum of counsel was filed on 16 December 2020, indicating that all parties to the relevant appeals consented to this approach. A consent order was then granted on 17 December 2020.
- 9 The remaining matters in the three consent memoranda included:
- (a) An amendment consequential on the rewording of Objective 2.7.2, being an amendment to the paraphrasing of this objective in Policy 2.6.1.4;
 - (b) An amendment consequential on the rewording of Objective 11.2.1, being an amendment to the paraphrasing of this objective in Policy 2.6.1.5; and
 - (c) Two amendments consequential on the rewording of Objective 2.3.1, being amendments to the paraphrasing of this objective in Policy 2.6.1.5 and Rule 19.12.2.1.

- 10 We note that the consequential amendments listed in the above paragraph no longer need to be made. This is because, when the Court issued the 17 December consent order to amend the wording of objectives 2.7.2, 11.2.1 and 2.3.1, on 17 December 2020, the Council then amended the affected provisions as a minor amendment under RMA clause 16, in order to avoid a disconnect between the revised wording of these objectives and their paraphrasing in other provisions.
- 11 As a result, there are no longer any remaining matters to be dealt with in either the consent memoranda for Otago Regional Council dated 15 October 2020 or for Transpower New Zealand Limited and Aurora Energy Limited dated 24 November 2020.
- 12 There are a number of remaining matters to be dealt with in the consent memorandum for KiwiRail Holdings Limited dated 22 September 2020; it is anticipated that documentation requesting resolution of these matters will be filed separately with the Court in July 2021.

Dated this 30th of April 2021



Michael Garbett/Georgia Cassidy
Counsel for the Respondent