

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-290

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 **Otago Regional Council**
Appellant

And **Dunedin City Council**
Respondent

Joint Application under section 293 of the RMA

22 December 2022

Respondent's solicitor:

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**anderson
lloyd.**

May it Please the Court

- 1 This application is made jointly by Otago Regional Council (**ORC**) and Dunedin City Council (**Council** or **DCC**) pursuant to section 293 of the RMA in relation to the appeal by Otago Regional Council (**ORC**) on the Hazard 1 (Flood) Overlay Zone at North Taieri (Gordon Road) Spillway (DCC Reference number 94) in the proposed Second Generation Dunedin City District Plan (**2GP**).
- 2 The Appellant sought in its appeal to remove the North Taieri (Gordon Road) Spillway from the Hazard 1 (Flood) Overlay Zone and include it in the Hazard 1A (Flood) Overlay Zone, so that natural hazard sensitive activities would be prohibited in this area.
- 3 There are no section 274 parties to this appeal¹.
- 4 The parties respectfully request that this matter is determined on the papers and seek the following directions pursuant to section 293 of the RMA (as set out below) with the Court making a final determination following compliance with those directions:
 - (a) That Dunedin City Council and Otago Regional Council agree to resolve DCC Reference number 94 by consulting with the registered landowners and occupiers located within the North Taieri (Gordon Road) Spillway as affected persons and including some or all of the North Taieri (Gordon Road) Spillway in the Hazards 1A (Flood) Overlay Zone to the 2GP;
 - (b) That Dunedin City Council is to consult with the registered landowners and occupiers of the properties located within the North Taieri (Gordon Road) Spillway, as affected persons, about the change to include some or all of the North Taieri (Gordon Road) Spillway in the Hazards 1A (Flood) Overlay Zone to the 2GP within three months of the date of this application using the process set out in the notice of consultation;
 - (c) That Dunedin City Council and Otago Regional Council are to report back to the Court (and serve on registered landowners and occupiers consulted) with the equivalent of a s42A Report on any positions

¹ Federated Farmers of New Zealand Incorporated has withdrawn as a section 274 party to this appeal as set out in the Joint Memorandum of Counsel dated 23 September 2022

expressed by the parties and recommendations for the Court to consider within two months of the consultation period ending;

- (d) That Dunedin City Council is to advise all consulted registered landowners and occupiers of land within the North Taieri (Gordon Road) Spillway area that if they wish to become a party to the Environment Court proceedings for this appeal they must lodge a section 274 party notice within 15 working days of Dunedin City Council and Otago Regional Council reporting back to the Court;
- (e) Any consulted person who wishes to be heard should lodge with the Court and serve on the other parties that person's evidence in writing within 15 working days from the closing date of filing a section 274 party notice with the Court; and
- (f) Leave is reserved to any party or affected person to apply for further or other directions.

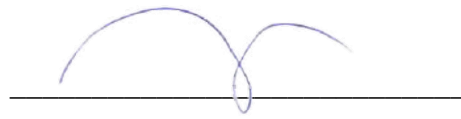
5 This application is supported by the following:

- (a) Joint Memorandum of Counsel;
- (b) Notice of Consultation (draft);
- (c) Affidavit of Paul Freeland on behalf of Dunedin City Council;
- (d) Affidavit of Jean-Luc Payan on behalf of Otago Regional Council;
- (e) Affidavit of Michelle Mifflin on behalf of Otago Regional Council;
- (f) Affidavit of Matthew Alley on behalf of Otago Regional Council;
- (g) Affidavit of Bikesh Shrestha on behalf of Otago Regional Council;
- (h) Affidavit of Tom Bassett on behalf of Otago Regional Council; and
- (i) Affidavit of Gary Bayne on behalf of Otago Regional Council.

Dated this 22nd day of December 2022

A handwritten signature in black ink, appearing to be 'Michael Garbett' or 'Georgia Cassidy', written over a horizontal line.

Michael Garbett/Georgia Cassidy
Counsel for the Respondent



Alastair Logan
Counsel for the Appellant