

BEFORE THE ENVIRONMENT COURT

Decision No. [2014] NZEnvC 233

IN THE MATTER of the Resource Management Act 1991

AND Direct Referral under section 198K of the
Act of an application for two designations

BY DUNEDIN CITY COUNCIL

(ENV-2013-CHC-107)

Applicant

Court: Environment Judge J R Jackson

Hearing: In Chambers at Christchurch

Date of Decision: 12 November 2014

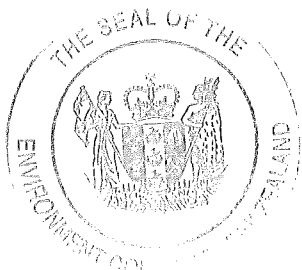
Date of Issue: 12 November 2014

DECISION

A: Under section 279(1)(b) of the Resource Management Act 1991, the
Environment Court, by consent, orders that:

- (1) Designation 1 – the Dunedin Harbourside Arterial link – is confirmed
without conditions;
- (2) Designation 2 – Dunedin Arterial – Access Road is confirmed as withdrawn;
- (3) The appeal is otherwise dismissed.

B: Under section 285 of the Resource Management Act 1991, costs are reserved.
Any application should be made by 25 November 2014, replies should be filed by 9
December 2014 and any final reply to be filed by 16 December 2014.



REASONS

Introduction

[1] Dunedin City Council (“the Council”) issued a notice of requirement (DIS-2013-1) for two designations relating to approximately 130m section of road that has been constructed as part of State Highway 88, Dunedin. On 11 October 2013 the Council lodged a notice of motion to have this notice of requirement decided by the Environment Court under section 198K of the Resource Management Act 1991 (“the Act”).

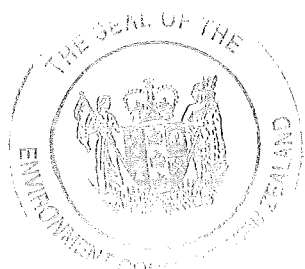
[2] The following parties gave notice of their intention to become a party to the proceeding under section 274 of the Act:

- (1) Anzide Properties Limited, Dunedin Crane Hire (2005) Limited, and Hall Brothers Transport Limited;
- (2) New Zealand Transport Agency;
- (3) Port Otago Limited; and
- (4) Otago Regional Council (withdrawn 4 February 2014).

[3] The proceeding was set down for hearing to commence 26 May 2014. But before that, on 8 May 2014 the parties applied for an adjournment as Anzide Properties Ltd & associated companies (“Anzide”), the only party opposing the notices of requirements, were in negotiations with Dunedin Holdings 2014 Limited and Lion – Beer, Spirits & Wine (NZ) Limited who were looking to purchase Anzide’s land.

[4] The court has read and considered:

- (1) the consent memorandum of the parties (including the future successor to Anzide) dated 31 October 2014 which proposes to resolve the appeals now since the future successor intends to redevelop the site and has advised that it does not need nor wants the legal road to access the properties; and
- (2) the report of Mr Allan Cubitt, Planning Consultant dated 3 October 2013. I accept that report in full in respect of Designation 1, that is, that the requirement be confirmed in full without any conditions.



[5] The original consent memorandum was not signed on behalf of Anzide so the court issued a minute dated 5 November 2014 on that subject, and Anzide consequently lodged its consent.

Orders

[6] The court records its thanks to Mr Cubitt for his full report on the matters to be considered

[7] The court understands for present purposes that:

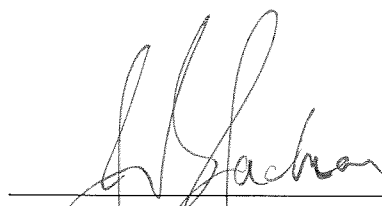
- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the court's endorsement fall within the court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

[8] The court is satisfied that the work and designation for the Dunedin Harbourside Arterial is reasonably necessary for achieving the objectives of the Dunedin City Council.

[9] Accordingly, the court is making the orders proposed in the consent memorandum dated 31 October 2014 under section 171 of the Act, such orders being by consent.

Costs

[10] The parties have agreed that costs are still an issue so I will direct a timetable for an application and submissions to be lodged and served.


J R Jackson
Environment Judge

