

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-285

Under	the Resource Management Act 1991 (RMA)
In the matter of	an appeal under clause 14(1) of the First Schedule of the RMA in relation to the proposed Second Generation Dunedin City District Plan (2GP)
Between	The Preservation Coalition Trust
	Appellant
And	Dunedin City Council
	Respondent

Affidavit of Michael John Bathgate

Affirmed 11th November 2019

Respondent's solicitors:

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**anderson
lloyd.**



I, **Michael John Bathgate** of Dunedin, Policy Planner, hereby solemnly and sincerely affirm:

- 1 I am a policy planner at Dunedin City Council.
- 2 I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014. This evidence has been prepared in accordance with it and I agree to comply with it. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
- 3 I have been employed by Dunedin City Council (DCC) as a policy planner for seven years. During this time, I have primarily worked on drafting the 2GP, assessing submissions, preparing and presenting s42A reports and working on the appeals. I previously had seven years' experience as a Research and Monitoring Planner with Dunedin City Council, undertaking district plan monitoring and research. I have a further 15 years' experience in a range of other policy and research positions, in central and local government and the private sector.
- 4 I hold a Masters of Regional and Resource Planning (with Distinction) from the University of Otago.

Background

- 5 This affidavit explores the interrelationship of the various parts of the appeal by The Preservation Coalition Trust (PCT). The Council and appellant have sought direction from the Court regarding management of the various aspects of this appeal, including a request by the Council (not supported by the appellant) for a hearing in relation to parts of the appeal related to landscape mapping, rural residential zoning, standards for the Hill Slopes Rural Zone and proposed new building standards for landscape and coastal overlays and the Hill Slopes Rural Zone.¹
- 6 A minute from the Court² has queried this request and the sequencing of addressing methods prior to the settling of objectives and policies.
- 7 This affidavit outlines:
 - (a) my understanding of the relief sought by PCT;
 - (b) the context provided by landscape and coastal character overlay zones and the methods used to manage activities within them;

¹ Application for Directions by Dunedin City Council dated 17 October 2019

² Dated 5 November 2019



- (c) the context of the relief sought by PCT in terms of the geographic extent of affected sites where mapping is under appeal;
- (d) a proposition to consider certain parts of the PCT appeal ahead of the original sequencing promoted by the Council.

8 I do not consider that the appeal points that I am promoting as a priority for elevated sequencing in this affidavit will result in any change to the objectives and policies of the 2GP.

Relief Sought by The Preservation Coalition Trust

- 9 The relief sought by PCT was set out in their amended notice of appeal dated 19 February 2019, with one minor correction issued 16 April 2019.
- 10 The Court gave leave for a further amended appeal to be filed by PCT; this was subsequently amended by Court direction to a statement of key issues, which was filed on 16 April 2019.
- 11 In this affidavit I set out my understanding of the relief sought by PCT in the context of both of these documents.
- 12 **Appendix A** to this affidavit provides an updated version of the appeal management topic table that was filed as Annexure B to the sixth case management memorandum from the Council on 16 April 2019, as it applies to PCT appeal points only.
- 13 Column 1 in the **Appendix A** table provides an updated and proposed sequencing for certain PCT appeal points, proposing that certain points are brought forward to be considered in conjunction with certain Group 1 appeal points that have already been the subject of mediation and continuing discussions between parties. I set out reasoning for this proposition from paragraph 19 of this affidavit.
- 14 Column 2 in the **Appendix A** table shows the original sequencing in terms of appeal management groups that appeal points were allocated to as set out in the April 2019 sixth case management memorandum.
- 15 Column 5 sets out the relief sought in the PCT appeal.
- 16 Column 6 includes the refinement of relief provided by the PCT statement of key issues filed on 16 April 2019.
- 17 Column 7 includes, subject to the confidentiality requirements of mediation and informal discussions with the appellant, my understanding of any further refinement of the relief sought by PCT.

- 18 I qualify this by that stating there are certain areas where I do not entirely understand the relief sought by PCT, or where relief sought is still a matter being clarified between the appellant and other parties.

Landscape and Coastal Character Overlay Zones

- 19 The main proposition in this affidavit is that the PCT relief sought in terms of the mapping of landscape and coastal character overlay zones should be considered at the same time as the relief sought in terms of the mapping of rural residential zones (in effect, an appeal against the expansion of rural residential zones over the operative Plan).
- 20 To provide some context to this, I briefly describe these landscape and coastal character zones and the methods that the 2GP uses to manage activities in these overlay zones.
- 21 Landscape overlay zones are established by the strategic Objective 2.4.4 and associated policies. Policy 2.4.4.2 states:

Classify and map natural features and natural landscapes as:

- a. Outstanding Natural Feature (ONF) and Outstanding Natural Landscape (ONL) overlay zones where features and landscapes have exceptional values; and
- b. Significant Natural Landscape (SNL) Overlay Zone where landscapes have values of high significance.

- 22 Coastal character overlay zones are established by strategic Objective 2.4.5 and associated policies. Policy 2.4.5.2 states:

Classify and map coastal areas as:

- a. Outstanding Natural Coastal Character (ONCC) Overlay Zone where the natural character of these areas is exceptional;
- b. High Natural Coastal Character (HNCC) Overlay Zone where the natural character of these areas is of high significance; and
- c. Natural Coastal Character (NCC) Overlay Zone where natural character is of less than high significance but restoration or enhancement of natural character will be promoted.

- 23 Appendices A3 and A5 to the 2GP describe values to be protected within landscape and coastal character overlay zones along with threats to these values and, in those overlay zones where some development is anticipated, key design elements to be required or encouraged.

- 24 The landscape and coastal character overlay zones form part of the consideration for identifying where new residential zoning (strategic Policy 2.6.2.1.d.iv & v) or new rural residential zoning (strategic Policy 2.6.1.5.c.iii & iv) is appropriate.
- 25 Where landscape and coastal character overlay zones overlay rural, rural residential and recreation management zones, the activity status tables in these management zones (Rules 16.3, 17.3 and 20.3 respectively) ascribe different activity status for certain land use and development activities within these overlay zones. Table 1 below provides some examples of this differentiation of activity status for the rural zones and the overlay zones that intersect with these zones.

Table 1. Activity status for selected activities in rural residential zones and overlay zones

Activity	Rural zones	ONL/SNL/NCC	ONF/ONCC/HNCC
Standard residential (Rule 16.3.3.26)	Permitted	Permitted	Non-complying
Forestry (Rule 16.3.3.7)	Permitted	Restricted discretionary	Non-complying
Mining (Rule 16.3.3.15) Landfills (Rule 16.3.3.10)	Discretionary	Non-complying in ONL Discretionary in SNL/NCC	Prohibited
New buildings and structures greater than 60m2 footprint (Rule 16.3.4.5)	Permitted	Restricted discretionary	Non-complying
Indigenous vegetation clearance – large scale	Restricted discretionary	Restricted discretionary	Restricted discretionary in ONF Non-complying in ONCC/HNCC

Overlay Zone Key: ONF = outstanding natural feature, ONL = outstanding natural feature, SNL = significant natural landscape, ONCC = outstanding natural coastal character, HNCC = high natural coastal character, NCC = natural coastal character

- 26 Network utilities activities, which are city-wide activities, also can have different activity status rules applying within landscape and coastal character overlay zones (Rule 5.3).
- 27 In some cases, the activity status for an activity in overlay zones is the same as the underlying management zone, but there is additional assessment guidance that applies in relation to the effects of the activity on landscape values or natural

character values. This additional assessment is indicated by a '+' alongside the activity status in the activity status tables.

- 28 Further to the differentiation of activity status rules within management zones and city-wide activity status tables, certain performance standards apply only in landscape and coastal character overlay zones. These are Rule 10.3.5, which controls the number and location of permitted buildings, and Rule 10.3.6, which controls the reflectivity of buildings and structures. Other performance standards may apply more widely but are differentiated within these overlay zones. Examples of this are Rule 8A.5.1 Earthworks – small scale thresholds and Rule 16.6.7 Number, location and design of ancillary signs (rural zones).
- 29 As relevant to this appeal it is important to note the difference in management approach between:
- (a) a rural zone with no overlay and an ONL - with the key differences being the approach to managing buildings, structures, earthworks, network utilities, forestry, mining and landfill activity; and
 - (b) an SNL and an ONL - with the key differences being the approach to managing earthworks, network utilities, mining and landfill activity, more difficult policy tests for activities requiring resource consent (refer policies 10.2.5.6-10.2.5.9).

Geographic Context of PCT Appeal

- 30 The PCT appeal seeks broad ranging relief in terms of rural residential zoning, challenging any expansion of rural residential zoning in comparison to the operative Plan.³
- 31 There was difficulty mapping the extent of rural residential sites under appeal, as appeal status was contingent on site-specific factors such as soil quality and visibility from identified viewpoints.⁴
- 32 The Council has been in on-going discussions with the appellant to refine the extent of relief sought in terms of this aspect of the appeal.
- 33 In terms of landscape overlays, it is my understanding that the PCT appeal seeks to reclassify as outstanding natural landscape (ONL) and extend three existing significant natural landscape (SNL) overlay zones on either side of Otago Harbour, namely the Flagstaff-Mt Cargill, Heyward Coast and North West

³ PCT Appeal, relief sought pp. 8-9 (DCC appeal points 93, 96)

⁴ A description of the relief sought is in the table in Appendix A, in the rows containing appeal points 93 and 96.

Peninsula SNL overlay zones.⁵ This extension is proposed by PCT to include rural and rural residential zoned areas not currently included in a landscape overlay zone. Attachment 2 to the PCT appeal included a map showing the proposed boundaries of the new ONL overlay zone. This map is attached for reference as **Appendix B** to this affidavit.

- 34 The PCT appeal also seeks to revise coastal overlay zones and better delineate the coastal environment.⁶ I am uncertain as to the extent of the relief sought, with the PCT's List of Key Issues suggesting that it may be focused on the Otago Peninsula and the catchment of the Otago Harbour. I note the appellant was directed in the Court minute of 22 October 2019 to respond in terms of the matters arising in relation to the coastal environment and overlays.
- 35 While there is still some uncertainty around the mapping of this appeal, I consider that the relief sought by the PCT appeal has wide-ranging impact due to the large number of sites and landowners potentially affected by the appeal. This includes a large number of sites not currently included in landscape and coastal overlay zones in the proposed 2GP, where PCT seeks expansion of these overlay zones.
- 36 Table 2 estimates the number of sites that may be affected by these aspects of the PCT appeal.⁷ In total, some 1,094 sites are estimated to be under appeal in terms of the new ONL sought by PCT, with 249 of these sites not currently within a landscape overlay zone. The appeal against rural residential zoning affects an estimated 376 sites, with some of these sites also under appeal as part of PCT's landscape appeal.

⁵ PCT Appeal, relief sought page 5 (DCC appeal points 75, 82)

⁶ PCT Appeal, relief sought page 5 (DCC appeal point 86)

⁷ Data provided by Research and Monitoring Officer, City Development, Dunedin City Council

Table 2. Estimate of sites affected by PCT rural residential and landscape mapping appeal

Appeal Point	Number of sites under appeal	Notes
Rural Residential 1 zoning (appeal point 96)	58	
Rural Residential 2 zoning (appeal point 93)	318	Equates to 88% of all RR2 sites
Sites under zoning appeal	376	
West Harbour Proposed ONL (appeal point 75)	461	Sites within Flagstaff Mt Cargill SNL*
	158	Sites outside but adjacent to Flagstaff Mt Cargill SNL (not in a landscape overlay currently)
	142	Sites within Heyward Coast SNL*
	11	Sites outside but adjacent to Heyward Coast SNL (not in a landscape overlay currently)
	772	Total sites under appeal (point 75)
East Harbour Proposed ONL (appeal point 82)	242	Sites within North West Peninsula SNL*
	61	Sites outside but adjacent to North West Peninsula SNL (not in a landscape overlay currently)
	19	Sites outside but adjacent to Peninsula Coast ONL (not in a landscape overlay currently)
	322	Total sites under appeal (point 82)
Sites under landscape appeal	1,094	

* includes sites that straddle the SNL boundary

Proposition for Amended Sequencing

- 37 Column 1 in the table in Appendix A to this affidavit sets out a proposition for promotion of certain PCT appeal points to be considered alongside Group 1 topics. In short, this proposes:



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- (a) addressing the relief sought for landscape overlay zone mapping (points 75, 82) as a priority, in conjunction with relief sought for rural residential zone mapping (points 93, 96);
- (b) if these landscape mapping points are sequenced with Group 1, the relief sought for the Cove residential transition zone (point 99)⁸ should also be considered as a Group 1 topic (point reallocated to Group 3 landscape/coastal mapping as part of the Group 1 mediation agreement); and
- (c) depending on clarification of the scope of the relief sought, the appeal on the coastal environment/coastal overlays (point 86) may also be better considered as a Group 1 topic alongside the landscape overlay zone mapping points.

38 My rationale for suggesting these amendments follows.

RR1 & RR2 Zoning Appeals (93, 96)

39 I note that rather than being site-specific challenges to zoning (considered under the Group 4 topic Rural Residential zoning), these appeals broadly challenge a large portion of the rural residential zoning in the 2GP (including a mix of already-developed sites and sites with development capacity). Rather than assessing, on a site-by-site basis, factors in the local environment of each site that may warrant rural zoning being more appropriate, the PCT takes a strategic approach to challenging rural residential zoning in principle – to the extent of challenging the zone almost in its entirety in the case of Rural Residential 2 (88% of sites being under appeal as per Table 2 above). The strategic nature of this challenge and the extensive impact of the appeal were the reasons why these points were promoted by the Council as Group 1 topics. I consider these are still valid reasons for these points (93, 96) to remain a high priority.

40 In general, my interpretation of the relief sought in relation to zoning by PCT is that it seems inherently linked to the appellant's position on the extent to which the 2GP protects landscape, natural character and visual amenity in the rural and rural residential parts of the city.

ONL Mapping Appeals (75, 82)

41 All other 2GP appeals to the mapping of landscape overlay zones are at a site-specific level, involving either individual landowners or, in one case, a group of

⁸ PCT Appeal, relief sought page 9

landowners, challenging the mapping of landscape overlay zones over a site or sites in their ownership.

- 42 By contrast, the PCT appeal challenges large extents of, or the entirety of, three SNL overlay zones and suggests further extensions to these as part of new ONL overlay zones. If successful, this relief would bring changes to activity status for some activities (as discussed in Table 1 above), the application of different scale thresholds for earthworks (Rule 8A.5.1) and more difficult policy tests for resource consent applications. Sites not currently mapped within a landscape overlay zone would be included in the new ONLs that the appellant is seeking. The scale of this relief sought (affecting 1,094 sites) and the landowners potentially affected warrant, in my assessment, it being considered as a priority issue.
- 43 Were the relief sought under points 75 and 82 to map areas as ONLs successful, this would call into question the appropriateness of the underlying rural residential zoning. For this reason, my opinion is that it merits consideration of the landscape mapping appeal points in conjunction with the rural residential mapping appeal points.
- 44 It would appear difficult to reach resolution in regard to PCT's rural residential appeals without understanding the result of appeals on the landscape overlay zones at the same time.

RTZ Zoning Appeal (99)

- 45 This point was reallocated to Group 3 landscape/coastal as part of mediation, on the basis of it being tied to the mapping of landscape and coastal overlay zones. The relief sought has been narrowed, making it a site-specific appeal. However, if consideration of the PCT relief sought on landscape overlay mapping (and perhaps coastal mapping) is brought forward, it may be more efficient to also consider this appeal point at the same time (particularly in terms of the use of experts from respective parties).

Coastal Mapping Appeals (86)

- 46 I note that this is the only appeal on the mapping of the coastal environment or coastal character overlays. As far as I am aware, there has been no clarification on this appeal point in response to the Court minute of 22 October 2019, noting that the Council does have some concern in relation to the scope for relief provided by the original submission. The relief sought does appear to be wide-ranging and likely to potentially affect a large number of sites and landowners.

Landscape & Coastal Overlays & Hill Slopes Zone Standards (70)

- 47 I am not promoting any different sequencing to this Group 3 appeal point, which is being considered separately as a jurisdictional issue (Court minute of 5 November 2019).
- 48 However, I note that under appeal point 70 PCT has sought, inter alia, the following relief in all landscape and coastal overlays and the Hill Slope Rural Zone: A land use maximum of one residential activity plus one family flat per site (refer para 15 of PCT List of Key Issues, 16 April 2019). This relief would require amendment of the residential density standards in the rural and rural residential zones (rules 16.5.2 and 17.5.2 respectively), with other appeals seeking amendment to these standards being considered under the Group 1 topics of Rural strategic and Rural residential strategic. Depending on resolution of the jurisdictional issues, it may be better that these aspects of the relief sought are considered in conjunction with the related Group 1 appeals.

Summary

- 49 In this affidavit I have offered my opinion that the landscape and coastal character mapping aspects of The Preservation Coalition Trust appeal appear to be closely linked to the appellant's appeals on zoning and should be considered concurrently. The fundamental nature of the challenge to these overlay zones appears to raise questions as to the appropriateness of the underlying zoning.
- 50 There has been some travel in terms of understanding the relief sought by the appellant since lodgement of the original notice of appeal. This process of clarification is still underway to a large degree. As the extent of relief sought becomes more apparent, both in terms of changes to mapping and to other provisions, understanding of the range of changes sought and consequential amendments that may be required is evolving. The breadth of these potential changes and large number of landowners affected means that, if understood better by the Council at the outset, a greater number of aspects of the PCT appeal may have been promoted for Group 1 consideration earlier on.
- 51 In response to a matter raised at paragraph 6 of the Court minute of 5 November 2019, I am not seeking that rules and other methods are determined ahead of objectives and policies. Certain rules (such as density and subdivision performance standards) are being considered as a Group 1 topic concurrently

with related objectives and policies. The jurisdictional issues associated with appeal point 70, whereby PCT is seeking broad-ranging amendment to rules, are being considered separately. However, in this affidavit I have drawn attention to the fact that some aspects of the relief sought under point 70 do appear to be related to the density standards in the rural and rural residential zones that are set down as a Group 1 topic.

Affirmed at Dunedin)
By Michael John Bathgate)
this 11th day of November 2019)
before me:)



A Solicitor of the High Court of New Zealand

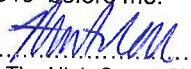
Ashleigh Nicole Mitchell-Craig
Solicitor
Dunedin

Appendix A: Updated Appeal Management Topic Table for Preservation Coalition Trust Appeal, with preferred sequencing

1. Proposed Sequencing	2. Appeal Management Topics	3. Appeal Point ID	4. Provisions Appealed	5. Relief Sought in appeal (12/1/19 replacement appeal, amended 19/2/19)	6. Relief sought in List of Key Issues (16/4/19)	7. Updates to Relief Sought post mediation	8. S274 Parties (Position)
Reallocate to Group 1, consider with points 93 & 96	Landscape/Coastal mapping (Group 3)	75	N/A	Reclassifying the Plan's landscape overlay zones per Map, Attachment 2, expanding the ONL and reducing the SNL around the Otago Harbour environs. <i>[p.5 of appeal] Recorded by Council as following appeal point:</i> Reclassify the Flagstaff-Mt Cargill Significant Natural Landscape Overlay Zone (as per Map, Attachment 2) to an ONL and revise the associated values (Appendix A).	Whether rural parts of Otago Peninsula and Harbour Basin should be identified and protected as ONF, ONL, SNL, ONCC, HNCC, NCC under the 2GP. The indicative extent is identified on the attached plan. <i>[page 2 of issues statement]</i>	Note this aspect of the appeal also applies to the Heyward Coast SNL and surrounds – this was not recorded in the Council's summary of the appeal under point 75.	Save The Otago Peninsula (STOP) (Support); Federated Farmers of New Zealand Incorporated (Neutral); University of Otago (Oppose); Otago Regional Council (Oppose in part); Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Support in part); Plaman Resources Limited (Oppose)
Reallocate to Group 1, consider with points 93 & 96	Landscape/Coastal mapping (Group 3)	82	N/A	Reclassifying the Plan's landscape overlay zones per Map, Attachment 2, expanding the ONL and reducing the SNL around the Otago Harbour environs. <i>[p.5 of appeal] Recorded by Council as following appeal point:</i> Reclassify the North West Peninsula Significant Natural Landscape Overlay Zone (as per Map, Attachment 2) to an ONL and revise the associated values (Appendix A).	Whether rural parts of Otago Peninsula and Harbour Basin should be identified and protected as ONF, ONL, SNL, ONCC, HNCC, NCC under the 2GP. The indicative extent is identified on the attached plan. <i>[page 2 of issues statement]</i>		Save The Otago Peninsula (STOP) (Support); Federated Farmers of New Zealand Incorporated (Neutral); University of Otago (Oppose); Otago Regional Council (Oppose in part); Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Support in part); Plaman Resources Limited (Oppose)

EXHIBIT NOTE

This is the annexure marked "A" referred to in the within affidavit of **Michael John Bathgate** and affirmed at Dunedin this 11th day of November 2019 before me:

Signature: 
A Solicitor of The High Court of New Zealand
(Solicitor to sign part on Exhibit)

Ashleigh Nicole Mitchell-Craig
Solicitor
Dunedin

1. Proposed Sequencing	2. Appeal Management Topics	3. Appeal Point ID	4. Provisions Appealed	5. Relief Sought in appeal (12/1/19 replacement appeal, amended 19/2/19)	6. Relief sought in List of Key Issues (16/4/19)	7. Updates to Relief Sought post mediation	8. S274 Parties (Position)
Retain in Group 1	Rural residential strategic (Group 1)	93	N/A	For sites within all of the Plan's RR2 Zones, the deletion from the new RR2 zoned areas those sites with: a. site soil quality that meets the 'productive' benchmark (see Attachment 5), or having, b. no boundary fully adjacent to a boundary of an urban/township Residential zoned property. In addition to the above two bullet points, for sites on the Otago Peninsula, or on the land generally west of the Otago Harbour (as described in Map Attachment 2), the following additional relief is sought: Deletion of sites having, a. any portion visible from Highcliff, Castlewood, Camp Rd, or dwellings accessed from these roads, or any portion visible from either the Harbour Cone ONF, or the summit of Mt. Charles, regardless of the presence of natural or built visibility obstructions, or having, any portion visible from Highcliff, Castlewood, Camp Rd. or dwellings accessed from these roads, or any portion visible from either the Harbour Cone ONF, or the summit of Mt. Charles, regardless of the presence of natural or built visibility obstructions, or having, b. any portion visible, from North Rd., Norwood St., Cleghorn St., Corsall St., Clifton St., Upper Junction Rd., Mt. Cargill Rd., Blueskin Rd., Purakanui Rd., Heyward Point Rd., or dwellings accessed from these roads, or any portion visible from either Signal Hill, or the Mihiwaka summit, regardless of the presence of natural or built visibility obstructions. <i>[pp.8-9 of appeal]</i>	Similar wording to appeal <i>[para 13 of issues statement]</i>		Save The Otago Peninsula (STOP) (Support); Federated Farmers of New Zealand Incorporated (Neutral); University of Otago (Oppose); Otago Regional Council (Support); Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Support in part); Plaman Resources Limited (Oppose)
Retain in Group 1	Rural residential strategic (Group 1)	96	N/A	For RR1 expansion adjacent to St. Leonards, which were additions to the operative plan's Rural Residential Zones, delete all sites per the four bullet point criteria set out for the sites in the RR2 zones relating soil to quality, adjacency to residential zoned property, or visibility. <i>[p.9 of appeal]</i>	Similar wording to appeal <i>[para 13 of issues statement]</i>	Relief sought narrowed to Rural Residential 1 sites indicated by PCT map, appended to application for directions to the Court dated 17 October 2019	Save The Otago Peninsula (STOP) (Support); Federated Farmers of New Zealand Incorporated (Neutral); University of Otago (Oppose); Otago Regional Council (Support); Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Support in part); Plaman Resources Limited (Oppose)
Retain in Group 1	Rural residential strategic (Group 1)	91	2.6.1.4	Recognition that zone expansion must be sequenced and staged with strict adherence to the proposed Otago Regional Policy Statement policy to minimize the division/conversion of rural land to small sites that may result in rural residential activity. <i>[p.8 of appeal]</i>	RR zone expansion must be minimised (per RPS 4.3.1.d), and properly staged and sequenced. Zone capacity must address Council reports indicating the approximate 50% available capacity in the operational Plan and capacity calculation errors in the s42A report. <i>[para 12 of issues statement]</i>	Agreement reached that relief should be via amendment to strategic policies 2.6.1.3-5. PCT have reserved a position on the need for consequential changes to methods - refer PCT tracked changes amendment to para 8 of application for directions to the Court dated 17 October 2019 (filed 22 October 2019)	Save The Otago Peninsula (STOP) (Support); Federated Farmers of New Zealand Incorporated (Neutral); University of Otago (Oppose); Otago Regional Council (Support); Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Support in part);

1. Proposed Sequencing	2. Appeal Management Topics	3. Appeal Point ID	4. Provisions Appealed	5. Relief Sought in appeal (12/1/19 replacement appeal, amended 19/2/19)	6. Relief sought in List of Key Issues (16/4/19)	7. Updates to Relief Sought post mediation	8. S274 Parties (Position)
							Plaman Resources Limited (Oppose)
Retain in Group 1	Rural strategic (Group 1)	71	16.7.4.1.d Subdivision MSS - Hill Slopes Rural Zone	For the Hill Slope Rural Zone, we seek a 40 ha MSS for one residential activity, 80ha for two residential activities and 120ha for three residential activities. <i>[p.5 of appeal]</i>	Increase minimum site size density standard for Hill Slope Rural zone: 40ha for one, 80ha for two, and 120ha for three residential activities (dwellings). <i>[para 11 of issues statement]</i>	PCT has scope to appeal subdivision standard (Rule 16.7.4) but has sought a waiver to add residential density standard (Rule 16.5.2) for Hill Slopes zone. PCT has filed a waiver application in relation to this appeal point (29/10/19).	Save The Otago Peninsula (STOP) (Support); Federated Farmers of New Zealand Incorporated (Neutral); University of Otago (Oppose); Otago Regional Council (Support); Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Support in part); Plaman Resources Limited (Oppose)
Retain in Group 3, or consider allocation of certain parts to Group 1 pending resolution of jurisdictional issues	Landscape/Coastal provisions (Group 3)	70	New Performance Standard	<i>Refer detailed relief sought on pages 3-4 of appeal, recorded by Council as following appeal point:</i> Improved provisions and a new performance standard for building and structure screening in the SNLs, ONLs, ONFs and the Hill Slope Rural Zone Inclusion of rules in the Natural Environment and Rural sections for all activity status types in all landscape and coastal overlays and the Hill Slope Rural Zone to avoid, remedy or mitigate adverse effects on landscape naturalness (examples provided, relating to density of residential activity including family flats, area and design of buildings and structures).	Similar wording to appeal <i>[paras 14-15 of issues statement]</i>	Council contends that PCT has scope to request screening standard but that much of remainder of relief sought is beyond scope. Appellant disagrees.	Save The Otago Peninsula (STOP) (Support); Federated Farmers of New Zealand Incorporated (Neutral); University of Otago (Oppose); Otago Regional Council (Oppose); Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Support in part); Plaman Resources Limited (Oppose)
Reallocated to Group 3 as part of mediation agreement, could consider with other Group 1 points if landscape point 82 reallocated.	Residential zoning - Broad (Group 1)	99	N/A	For sites on the Otago Peninsula, in or on the land generally west of the Otago Harbour: Reduce the size of RTZ zones to include only vacant sites in the RTZ which have all of their boundaries completely shared with surrounding sites which are zoned Urban Residential in the operative plan. In other words, only cases where a site can achieve complete infill within residential zoning that totally surrounds the site. <i>[p.9 of appeal]</i>	Similar wording to appeal <i>[para 13 of issues statement]</i>	Relief sought limited to the RTZ at the Cove, appeal point reallocated to Group 3 Landscape/Coastal mapping (refer Court minute 13/9/19)	Save The Otago Peninsula (STOP) (Support); Federated Farmers of New Zealand Incorporated (Neutral); University of Otago (Oppose); Otago Regional Council (Support); Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Support in part); Plaman Resources Limited (Oppose)

1. Proposed Sequencing	2. Appeal Management Topics	3. Appeal Point ID	4. Provisions Appealed	5. Relief Sought in appeal (12/1/19 replacement appeal, amended 19/2/19)	6. Relief sought in List of Key Issues (16/4/19)	7. Updates to Relief Sought post mediation	8. S274 Parties (Position)
Uncertain, clarification to be provided by appellant. May be efficient to consider in Group 1 with PCT landscape mapping appeal point 82 if this is reallocated.	Landscape/Coastal mapping (Group 3)	86	N/A	Delineate the coastal environment, including the CMA (as per Map, Attachment 2) and revise the associated values (Appendix A). Revise the coastal overlays, including their values, and addressing the CMA. <i>[p.5 of appeal]</i>	The coastal waters associated with the peninsula and basin should also be identified, in a non-statutory map, as ONF, ONL (recognizing the relationship between land and water, but also that the district plan has no direct jurisdiction over the CMA). This issue relates to whether the Overlay gives effect to the NZCPS. The 2GP does not identify the coastal environment in the district, outside areas identified as Coastal Character. The Trust contests this approach, but geographically limited to the Otago Peninsula and Harbour Basin. The relevant issue is whether the Otago Peninsula, and Harbour Basin, should be classified as coastal environment, in terms of the criteria in NZCPS Policy 1. The indicative extent will be identified on a plan to be produced. This issue relates to whether the coastal environment overlay gives effect to the NZCPS. <i>[pages 2-3 of issues statement]</i>	Court has asked for clarification (Court minute 22 October 2019). Council has raised some concerns with appellant around scope provided by original submission, depending on nature of relief sought.	Save The Otago Peninsula (STOP) (Support); Federated Farmers of New Zealand Incorporated (Neutral); University of Otago (Oppose); Otago Regional Council (Oppose in part); Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Support in part); Plaman Resources Limited (Oppose)
Retain in Group 3	Landscape/Coastal provisions (Group 3)	341	2.4 Dunedin is a Memorable City with a Distinctive Built and Natural Character 2.6 Dunedin has Quality Housing Choices and Adequate Urban Land Supply 2.2 Dunedin is Environmentally Sustainable and Resilient	Add new policies and rules that will ensure that inappropriate, adverse effects on landscape naturalness and other rural attributes identified in the Plan do not occur. <i>[p.2 of appeal]</i>	Objective 2.4.4 Natural landscapes and natural features Whether to amend “restrict” to more appropriate wording and insert “location”; or substitute alternative wording that gives effect to the NZCPS and imports an avoidance threshold for activities that result in more than minor or transitory adverse effects for: • Policy 2.4.4.3(c) • Policy 2.4.5.3 “..restrict the scale of development in ONFs, ONLs and SNLs and ensure the location and design of development is appropriate..” “..restrict the scale of development in ONCC, HNCC and NCCs and ensure the location and design of development is appropriate..” <i>[para 5 of issues statement]</i>		Save The Otago Peninsula (STOP) (Support); Oceana Gold (Oppose); Federated Farmers of New Zealand Incorporated (Neutral); University of Otago (Neutral); Otago Regional Council (Oppose in part); Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Support in part); Plaman Resources Limited (Oppose)

1. Proposed Sequencing	2. Appeal Management Topics	3. Appeal Point ID	4. Provisions Appealed	5. Relief Sought in appeal (12/1/19 replacement appeal, amended 19/2/19)	6. Relief sought in List of Key Issues (16/4/19)	7. Updates to Relief Sought post mediation	8. S274 Parties (Position)
Resolved	Rural residential strategic (Group 1)	90	2.6.1.5	Delete the word 'generally' from Policy 2.6.1.5.c.iii as follows: Dunedin's outstanding and significant natural landscapes and natural features are protected (Objective 2.4.4). Achieving this includes generally avoiding the application of new rural residential zoning in ONF, ONL and SNL overlay zones; Delete the word 'generally' from Policy 2.6.1.5.c.iv as follows: the natural character of the coastal environment is preserved or enhanced (Objective 2.4.5). Achieving this includes generally avoiding the application of new rural residential zoning in ONCC, HNCC and NCC overlay zones. <i>[pp.5-6 of appeal]</i>	Similar wording to appeal <i>[para 6 of issues statement]</i>	Agreement reached to narrow relief to ONF, ONL, ONCC and HNCC overlay zones (refer Appendix A to Court minute 22/10/19)	Save The Otago Peninsula (STOP) (Support); Federated Farmers of New Zealand Incorporated (Neutral); University of Otago (Oppose); Otago Regional Council (Oppose in part); Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (Support in part); Plaman Resources Limited (Oppose)
Withdrawn	Residential zoning - Broad (Group 1)	342	N/A			Appeal point withdrawn (refer Court minute 22/10/19)	
Withdrawn	Rural strategic (Group 1)	343	N/A			Appeal point withdrawn (refer Court minute 22/10/19)	

Attachment 2

Ashleigh Nicole Mitchell-Craig
Solicitor
Dunedin

EXHIBIT NOTE

This is the annexure marked "B" referred to in the within affidavit of **Michael John Bathgate** and affirmed at Dunedin this 11th day of November 2019, before me:

Signature: [Signature]
A Solicitor of The High Court of New Zealand
(Solicitor)



Dunedin 2GP - ONL sought by The Preservation Coalition Trust