

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-244

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 **B W Taylor & the Estate of Lawrence Taylor**

Appellant

And **Dunedin City Council**

Respondent

**Consent Memorandum – Farm buildings in landscape and coastal character
overlays**

10 May 2021

Group 2a – Management of effects on landscape values	DCC appeal reference number 13 (B W Taylor & the Estate of Lawrence Taylor)
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Respondent's solicitors:

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May it please the Court

- 1 This consent memorandum relates to the appeal from B W Taylor & the Estate of Lawrence Taylor (**Taylor**) on rules for farm buildings within landscape and coastal character overlays.
- 2 The appeal sought that there be no size limits placed on modern sheds used for farming activities (DCC reference number 13).
- 3 There are no section 274 parties to this appeal point.
- 4 The parties have agreed the following amendment that is shown in **Appendix A**:
 - (a) Amend the notification rule for the rural zones (Rule 16.4) to indicate that resource consent applications for building and structures used for farming will not generally be notified, and written approval from affected persons will not generally be required, where the resource consent is triggered by area thresholds that apply in Significant Natural Landscape (SNL), Outstanding Natural Landscape (ONL) or Natural Coastal Character (NCC) overlay zones (Rule 16.3.4.5.b).
- 5 This is a partial settlement of the appeal. The appeal reference point, topic and status of proceedings for the remainder of the appeal are as follows:
 - (a) Group 1 – Rural strategic (DCC Reference number 10) – consent memorandum signed by all parties and filed with the Court on 30 April 2021 as part of the Rural/Rural Residential Strategic Bundle.
- 6 The rationale for the change, and an assessment of the change in terms of section 32 of the RMA, is explained in an affidavit of Jane Elliot Macleod, a senior policy planner at Dunedin City Council.
- 7 The amendment has been drafted to be in keeping with the 2GP Style Guide.

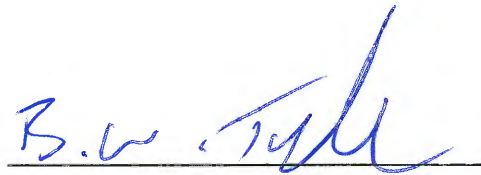
Directions sought

- 8 The parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the RMA, including Part 2 and request:
 - (a) That the amendments shown in strikethrough and underline in **Appendix A** are made; and

(b) Provided that DCC Reference number 10 has been considered by the Court, that the appeal is otherwise dismissed.

9 The parties agree that costs should lie where they fall and accordingly no order of costs is sought.

Dated this 10th day of May 2021



Bruce Taylor
Appellant



Michael Garbett/Georgia Cassidy
Counsel for the Respondent

Appendix A

1 Amend Rule 16.4.1 as follows:

Rule 16.4 Notification

1. Applications for resource consent for the following activities will be considered without the need to obtain a written approval of affected persons and will not be notified in accordance with section 95A or 95B of the RMA, unless either Council considers special circumstances exist in relation to the application that require public notification or specific parties are required to be notified by rules 16.4.2, 16.4.3, 16.4.4, 16.4.5 or 16.4.7:
 1. papakāika (controlled activity) where the associated site development activities are permitted;
 2. earthquake strengthening of a scheduled heritage building or scheduled heritage structure where external features only are protected (controlled activity) and that are not listed by Heritage New Zealand; and
 3. contravention of the materials and design performance standard (Rule 13.3.2) where the building or structure is not listed by Heritage New Zealand; and
 4. new buildings or structures greater than 60m² footprint, or additions and alterations that result in a building or structure that is greater than 60m² footprint, within an SNL, ONL or NCC overlay zone (Rule 16.3.4.5.b), where the building or structure is to be used for farming.
2. With respect to resource consent applications for the following activities, Heritage New Zealand will be considered an affected person in accordance with section 95B of the RMA where its written approval is not provided:
 1. activities that affect a protected part of a scheduled heritage building, scheduled heritage structure, or a scheduled heritage site, that is listed with Heritage New Zealand;
 2. contravention of the materials and design performance standard (Rule 13.3.2) where the building or structure is listed by Heritage New Zealand; and
 3. contravention of the archaeological sites performance standard (Rule 13.3.3).
3. With respect to resource consent applications for the following activities, Manawhenua will be considered an affected person in accordance with section 95B of the RMA where their written approval is not provided:

1. *cemeteries, crematoriums and landfills;*
 2. *all restricted discretionary activities that list 'effect on cultural values of Manawhenua as a matter for discretion; and*
 3. *discretionary and non-complying activities in a wāhi tūpuna **mapped area** where the activity is identified as a threat in Appendix A4.*
 4. *With respect to resource consent applications for the following activities, the Department of Conservation will be considered an affected person in accordance with section 95B of the RMA where its written approval is not provided:*
 1. *indigenous vegetation clearance - large scale in a scheduled Area of Significant Biodiversity Value; or*
 2. *indigenous vegetation clearance - large scale or any discretionary or non-complying activity in a Natural Coastal Character, High Natural Coastal Character or Outstanding Natural Coastal Character overlay zone.*
 5. *With respect to resource consent applications for the following activities within the **radio transmitters mapped area**, Radio New Zealand Limited will be considered an affected person in accordance with section 95B of the RMA, unless its written approval is provided or discretion is restricted and excludes consideration of reverse sensitivity effects:*
 1. *any activities that may be sensitive to electromagnetic interference, noise or visual effects from Radio New Zealand's facilities at 740 Highcliff Road and 35 Karetai Road; and*
 2. *subdivision that could result in activities of this kind.*
 6. *With respect to sections 95D(b) and 95E(2)(a) of the RMA, Council will not consider papakāika or family flats as part of the permitted baseline in considering residential density effects in the rural zones.*
 7. *With respect to resource consent applications for the following activities, the Otago Regional Council will be considered an affected person in accordance with section 95B of the RMA where its written approval is not provided:*
 1. *activities in the hazard 1 or hazard 1A (flood) overlay zones; and*
 2. *activities in swale **mapped areas**.*
 8. *All other activities are subject to the normal tests for notification in accordance with sections 95A-95G of the RMA.*
- 2 Make any consequential changes to plan numbering as required as a result of the above amendments. Minor referencing and style changes may also be made for consistency with the 2GP formatting.