

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-291

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	BP Oil New Zealand Limited and Others
	Appellant
And	Dunedin City Council
	Respondent

Consent Memorandum

15 October 2019

Respondent's solicitors:

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**anderson
lloyd.**

May it please the Court

- 1 This consent memorandum relates to the BP Oil New Zealand Limited and Others appeal regarding alerting plan users to the need to comply with the National Environmental Standard for Assessment and Managing Contaminants in Soil to Protect Human Health (NESCO).

- 2 The appeal sought to:

“Ensure appropriate references are included in the 2GP to draw the attention of plan users to the need to comply with the NESCO when undertaking works on contaminated soil. Include a new objective and policy in Chapter 9 – Public Health & Safety as follows or to the same effect:

Objective:

There are no significant risks to human health posed by residual soil contaminant levels in land that has a history of land use which may have resulted in contamination.

Policies:

Ensure that before any development, redevelopment or change of land use on land that has a history of land use that may have resulted in contamination, associated health risks are appropriately identified and managed.

Any change of land use, development or redevelopment on contaminated land ensures that any proposed management controls, including remediation, pathway or receptor controls, will ensure the risks to human health are acceptable for the intended land use.”

- 3 Aurora Energy Limited, Bindon Holdings Limited, Horticulture New Zealand, Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou, Oceana Gold and Te Rūnanga o Ngāi Tahu are s274 parties to this appeal. Liquigas Limited joined but then withdrew interest in this appeal.
- 4 The parties have agreed new policies that are shown in Appendix A.
- 5 The rationale for the new policies, and the assessment of them in terms of section 32, is explained in an affidavit of Sarah Catherine Hickey, a policy planner at Dunedin City Council, and supporting affidavit of Dr Anna Louise Johnson the City Development Manager, Dunedin City Council.
- 6 There is no impact on any higher order policies, objectives or strategic directions. No consequential amendments are required.

Directions sought

- 7 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) That the appeal be otherwise dismissed.
- 8 The parties agree that costs should lie where they fall and accordingly no order of costs is sought.

Dated this 15th day of October 2019



BP Oil New Zealand Limited and Others
Appellant

Michael Garbett/Rachel Brooking
Counsel for the Respondent

Aurora Energy Limited
Section 274 Party

Bindon Holdings Limited
Section 274 Party

Directions sought

- 7 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) That the appeal be otherwise dismissed.
- 8 The parties agree that costs should lie where they fall and accordingly no order of costs is sought.

Dated this day of October 2019

BP Oil New Zealand Limited and Others
Appellant



Michael Garbett/Rachel Brooking
Counsel for the Respondent



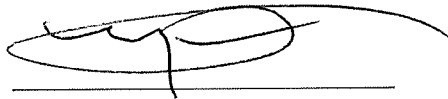
Aurora Energy Limited
Section 274 Party

Bindon Holdings Limited
Section 274 Party

Directions sought

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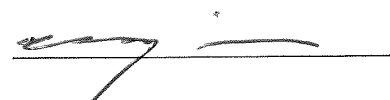
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BP Oil New Zealand Limited and Others
Appellant

Michael Garbett/Rachel Brooking
Counsel for the Respondent

Aurora Energy Limited
Section 274 Party



Bindon Holdings Limited
Section 274 Party



Horticulture New Zealand
Section 274 Party

Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou
Section 274 Party

Oceana Gold
Section 274 Party

Te Rūnanga o Ngāi Tahu
Section 274 Party

Horticulture New Zealand
Section 274 Party



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Section 274 Party

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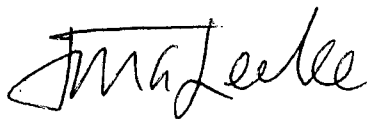
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Section 274 Party

Oceana Gold
Section 274 Party



JOSHUA LEKIE
Te Rūnanga o Ngāi Tahu
Section 274 Party

Horticulture New Zealand
Section 274 Party

Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou
Section 274 Party

Oceana Gold
Section 274 Party

Te Rūnanga o Ngāi Tahu
Section 274 Party



Federated Farmers of New Zealand
Section 274 Party

Appendix A

1. Include the following strategic direction policy under Objective 2.2.6 Public health and safety:

Policy 2.2.6.3

Give effect to the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 by including a policy to support the implementation of regulations provided by that national environmental standard.

2. Include the following policy in section 9 (Public Health and Safety) under Objective 9.2.2:

Policy 9.2.2.16

Activities on land that has a history of land use that may have resulted in contamination are managed in accordance with the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011, including by:

- a. at the time of subdivision, land use or when land development activities involving soil disturbance take place, identifying and assessing risk to human health from contaminants in soil, where practicable; and
- b. if necessary based on the intended use of the land, remediating or managing the contaminants to make it safe for human use.