

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-281

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	Robert Francis Wyber Appellant
And	Dunedin City Council Respondent

Reporting memorandum for Residential Strategic topic for Wyber appeal

24 January 2020

Respondent's solicitors:

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May it please the Court

- 1 As directed in paragraph 6(c) of the Minute of the Environment Court dated 13 September 2019, Dunedin City Council (**Council**) files a Reporting Memorandum to update the Court on the Residential Strategic topic for the Wyber appeal.
- 2 The Wyber appeal is currently on hold to allow the preparation of Variation 2 to advance.
- 3 The Group 1 Mediation Report records the following in relation to the Wyber appeal:
 - 15 This topic had one appeal being *Robert Francis Wyber v Dunedin City Council* ENV-2018-CHC-281. The appeal seeks to make more land available for residential development. The relief sought aligns with the objectives for Variation 2, which was initiated by Council in February of this year. For that reason, the parties at mediation agreed to the following:
 - (a) The parties wish to adjourn the mediation to allow preparation of Variation 2 to advance.
 - (b) Variation 2 is being prepared by the Council in response to Dunedin becoming a 'medium growth' center under the NPSUDC and the Council's capacity assessment having identified a shortfall in urban land supply. Variation 2 also responds to other urban land supply related issues that have arisen within Dunedin City since the 2GP hearings.
 - (c) Variation 2 is directly relevant to the relief sought in the Appeal (281) and the associated interests of many of the section 274 parties. The parties are agreed that Variation 2 may enable the Appeal (281) to be withdrawn or further refined.
 - (d) The parties have agreed that the existing Strategic Direction Objectives within Chapter 2 of the 2GP are not at issue. There is currently an outstanding issue between the parties as to how the Strategic Objectives are most efficiently and effectively implemented through Strategic Direction policies. This may be able to be resolved through Variation 2 depending on the final scope of that variation.
 - (e) The parties consider that it will be most efficient if the mediation is adjourned to allow work to develop Variation 2 to advance. The parties have agreed on a programme of work with regular reporting to the mediation group to enable discussions to progress. This will culminate in a reconvened mediation (likely to

occur in February/March 2020) to discuss the Appeal and what may or may not be included within Variation 2 that would address the matters raised in the Appeal. At that stage it will be possible to determine whether the Appeal needs to remain on foot.

- (f) This proposed course of action may also allow rezoning appeals currently assigned to Group 4 to be progressed along side Variation 2. The parties do not consider that these mediations require assistance of the Court at this stage. It is intended that they be progressed between the parties directly as the information relevant to them becomes available (which is likely to be from Mid-December).

Progress of Variation 2

- 4 Variation 2 is intended to address the provision of additional residential capacity in Dunedin City.
- 5 The update on the progress of Variation 2 is as follows:
 - (a) In order to assess the zoning options for Variation 2 Council is awaiting the outcomes of infrastructure modelling currently being worked on by experts in this field. Council anticipates receiving the modelling outcomes at the end of February 2020;
 - (b) Work has progressed on possible changes to policies and rules, including strategic policies, to facilitate residential development. Council is almost at the position of being able to share relevant aspects of this work with the Appellant to seek preliminary feedback and identify whether the concerns raised within the appeal are being addressed. It is anticipated that this process will begin within the next two weeks; and
 - (c) The timeframe for notification of Variation 2 is currently estimated by Council to be June 2020.

Directions sought

- 6 The following directions are sought:
 - (a) That this appeal remains on hold; and

- (b) A further reporting memorandum is to be filed by Friday 24 April 2020 to keep the Court, and parties, informed of the progress of Variation 2.

Dated this 24th day of January 2020



Phil Page/Derek McLachlan
Counsel for the Appellant



Michael Garbett
Counsel for the Respondent