

In the Environment Court of New Zealand
Christchurch Registry

I Mua I Te Kōti Taiao o Aotearoa
Ōtautahi Rohe

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 **Bruce Wayne Taylor and the Estate of Lawrence Taylor**
(ENV-2018-CHC-244)

The Preservation Coalition Trust
(ENV-2018-CHC-285)

Appellants

And **Dunedin City Council**

Respondent

Affidavit of Jane Elliot Macleod

Affirmed 15 November 2021

Group 2a – Location of landscape overlays,
management of effects on landscape values

DCC Reference numbers:

- Taylor (DCC Reference number 13)
- PCT (DCC Reference numbers 70 (in part), 75, 82 and 341)

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**anderson
lloyd.**

I, **Jane Elliot Macleod** of Dunedin, Team Leader - Planning, hereby solemnly and sincerely affirm:

- 1 I am a team leader – planning at Dunedin City Council (**Council** or **DCC**).
- 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 as a planner/senior planner/team leader planning for fourteen years. I took on the role of team leader – planning in July this year. For the past seven years I have primarily worked on the various stages of Dunedin's Second Generation District Plan (2GP), including research, consultation, plan drafting, submissions, hearings and appeals. I have worked on a range of 2GP topics, including network utilities, the natural environment, transport, mining, and the rural and rural residential zones.
- 4 I have a BA (Hons) in History from the University of Manchester, UK (2000), and an MSc in Environmental Studies from the University of Strathclyde, UK (2006).

1.0 Introduction

- 5 This affidavit provides the rationale, and an assessment in terms of section 32, for the changes agreed in the following two consent memoranda to resolve appeals from The Preservation Coalition Trust (**PCT**) and Bruce Wayne Taylor and the Estate of Lawrence Taylor (**Taylor**):
 - (a) Consent memorandum – Location of landscape overlays; Management of effects on landscape values; Management of effects on rural character and amenity (Hill Slopes Rural Zone); management of effects on rural residential character and amenity, dated 12 October 2021 (DCC Reference numbers 70 (in part), 75, 82 and 341); and
 - (b) Consent memorandum – Farm buildings in landscape and coastal character overlays, dated 10 May 2021 (DCC Reference number 13).
- 6 Save the Otago Peninsula, Federated Farmers of New Zealand, Otago Regional Council, Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Otākou, Oceana Gold New Zealand Limited, Robert Duffy, Ben Ponne and Phil Cunningham are section 274 parties to the PCT appeal. There are no 274 parties to the Taylor appeal.

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- 7 This affidavit is divided into three topics, as follows:
- (a) Location of landscape overlays;
 - (b) Provisions to manage effects on the values of Outstanding Natural Landscape (ONL), Significant Natural Landscape (SNL) and Natural Coastal Character (NCC) overlay zones; and
 - (c) Provisions to manage effects on character and amenity in the Hill Slopes Rural Zone and rural residential zones.
- 8 I note that the following aspects of PCT's appeal were not pursued after mediation, and are therefore not addressed in this affidavit:
- (a) Requests for new performance standards in 2GP sections 10 (Natural Environment) and 16 (Rural Zones) to manage buildings, structures, and building platforms to avoid disruption of the silhouette of the natural landform; and
 - (b) Requested change to Policy 17.2.3.5, which manages the effects of subdivision on character and amenity in rural residential zones.
- 9 In addition, I note that, as stated in paragraph 4 of the "Consent memorandum – Location of landscape overlays...", the following aspect of PCT's appeal on landscape provisions (appeal point 70 (in part)) remains unresolved and is therefore not addressed in this affidavit:
- (a) Requested changes to clauses a and b.i of Rule 10.3.5.2, relating to the number and location of permitted (<60m²) buildings in ONLs, SNLs and NCCs, and associated content in Appendix A11 Design Guidelines.
- 10 However, the agreed change to clause b.ii of Rule 10.3.5.2, in relation to the Pukehiki Township and Settlement Zone (see page 11 of consent memorandum), which is consequential to the agreed expansion of the SNL Overlay Zone to include land at Pukehiki, is addressed in this affidavit.

2.0 Location of landscape overlays

2.1 Background

- 11 This topic consists of one appeal, from PCT, seeking that the 2GP's protection of landscape values be strengthened via the expansion of identified landscape overlay zones. The 2GP identifies and protects three different types of landscape overlay zone:

- (a) Outstanding Natural Features (**ONFs**), which are relatively small in extent and generally cover hilltops, geological features, and islands with identified outstanding landscape values, such as the peaks of Saddle Hill and Hereweka/Harbour Cone, the Pyramids, Kamau Taurua/Quarantine Island and Rakiriri/Goat Island; and
 - (b) Outstanding Natural Landscapes (**ONLs**) and Significant Natural Landscapes (**SNLs**), which cover large areas of the rural environment with identified outstanding or significant landscape values – for example, the High Country Outstanding Natural Landscape which overlies most of the north-western extent of the DCC area, including the Rock and Pillar and Lammermoor Range ridgelines, and the Maungatua Significant Natural Landscape, which includes the higher slopes on both sides of the Maungatua Range and parts of the Mill Creek and Waipori Gorge areas.
- 12 ONFs and ONLs are identified in accordance with section 6(d) of the RMA in relation to the protection of outstanding natural features and landscapes, whereas SNLs are identified in accordance with sections 7(c) and 7(f) regarding maintenance and enhancement of amenity values and the quality of the environment.
- 13 At the time submissions were made on the 2GP, PCT was known as the Harboursides and Peninsula Preservation Coalition (**HPPC**). HPPC submitted on the Plan to request the application of ONL to the Otago Peninsula and a significant amount of land to the north-west of Otago Harbour, including the west harbour summits from Signal Hill to Heyward Point, and also Mt Cargill, Mt Holmes, Mt Kettle, Mopanui and Potato Point¹.
- 14 Based on evidence from Mike Moore, landscape architect for the DCC, the Natural Environment Hearing Panel decided to reject HPPC's submission in relation to the Otago Peninsula, but to partially accept it in relation to the land to the north-west of the harbour. As a result, the decision amended the boundary of the Heyward Coast ONL to include additional land to the north of Heyward Point Road.
- 15 In its appeal on the Panel's decision, PCT again initially sought ONL over much of the land on the Peninsula and to the north-west of the Harbour. In February 2020, expert conferencing was held between PCT's landscape architect, Di Lucas, and Mike Moore for the DCC, who produced a Joint Witness Statement on 31 March 2020 setting out areas of agreement, which included expansion of both ONL and SNL within the appeal area.

¹ The DCC reference numbers for these submission points are OS447.126 and OS447.127.

PCT subsequently (September 2020) amended its appeal so that a combination of SNL and ONL (rather than ONL only) was sought, in line with the recommendations of the Joint Witness Statement.

- 16 Prior to mediation of this appeal, which took place in February 2021, the DCC engaged Rhys Girvan, Senior Principal Landscape Planner with Boffa Miskell, to undertake a review of both the landscape evidence provided to the DCC prior to notification of the 2GP, and of the recommendations in the Joint Witness Statement. The DCC has relied upon Mr Girvan's advice in reaching an agreed resolution to this appeal.

2.2 Agreement reached

- 17 The parties have agreed that the following changes should be made to the 2GP:
- (a) The landscape overlays on the Otago Peninsula and to the north-west of Otago Harbour should be amended as shown in the map attached to the "Location of landscape overlays" consent memorandum as Appendix A. This involves an expansion of both SNL and ONL.
 - (b) Amendments to Appendix A3 Landscape values, which describes the Plan's overlays and sets out their values, should be made to reflect these mapping changes. See details in Appendix B of the "Location of landscape overlays..." consent memorandum.
 - (c) In consequence of the agreed application of SNL to an area of residential zone at Pukehiki on the Otago Peninsula, rules in 2GP Section 15 Residential Zones should be amended to manage effects on landscape values in this area. This is necessary because, prior to the agreed changes to the extent of the SNL, there was no intersect between the SNL and residential zones, and thus no relevant provisions in Section 15. These changes add: limits on the height (Rule 15.6.6.2.a.v.3) and area (Rule 15.6.X) of buildings and structures within the SNL; and a limit on the reflectivity of exterior surfaces within the SNL (Rule 15.6.Y). Beyond these limits, resource consent will be required and effects on landscape values assessed. These amended rules in Section 15 cross-reference to relevant existing performance standards, assessment rules and policies in Section 10 Natural Environment. In one case, a consequential change to a Section 10 performance standard is required; this is a change to Rule 10.3.5 Area, Number and Location of Permitted Buildings, to apply a more lenient standard to buildings within the residential-zoned Pukehiki SNL than applies to buildings within SNLs and ONLs in rural and rural residential zones. The change applies a

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250m² (rather than a 60m²) permitted limit to the area of buildings, and exempts the Pukehiki SNL from a rule that manages the number and location of small buildings. See details in paragraph 5(c) and Appendix B of the "Location of landscape overlays..." consent memorandum.

- (d) In consequence of the agreed application of ONL to certain areas within the Rural Residential 2 Zone, there are amendments to a range of provisions in Section 17 Rural Residential Zones to add references to ONLs. This is necessary because, prior to the agreed changes to the extent of the ONL, there was no intersect between the ONL and rural residential zones, and thus relevant provisions in Section 17 currently refer only to SNLs, and not to ONL. The required changes include the addition of references to ONLs within the Section 17 activity status table, and certain performance standards and assessment rules. See details in paragraph 5(d) and Appendix B of the "Location of landscape overlays..." consent memorandum.
- (e) Please note that, although the changes relating to the new Pukehiki SNL and the new areas of ONL within the RR2 Zone are consequential to the landscape overlay changes, the section 32AA assessment for these is provided in the "Provisions to manage effects on landscape values in landscape overlays" section of this affidavit (Section 3.0), below, because they overlap with changes made in response to PCT's appeal on landscape provisions.

2.3 Section 32AA Assessment

- 18 The 2GP strategic objective that is most relevant to the agreed changes to landscape overlays set out above is Objective 2.4.4. Policies 2.4.4.1 to 2.4.4.2 set out the methods used in the Plan to implement this objective, in relation to the identification, assessment and classification of natural features and landscapes. The objective and policies are as follows:

Objective 2.4.4

Dunedin's outstanding and significant natural landscapes and natural features are protected.

Policy 2.4.4.1

Identify and assess natural features and natural landscapes based on the following values:

- a. natural science factors;

- b. aesthetic values and memorability;
- c. expressiveness and legibility;
- d. transient values;
- e. whether values are shared and recognised;
- f. value to takata whenua; and
- g. historical associations.

Policy 2.4.4.2

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.
- 19 The expansion of ONLs and SNLs agreed by the parties is supported by landscape evidence from Rhys Girvan (2GP Landscape Overlays, 21 May 2021), which is to be filed with the Court, together with an affidavit from Mr Girvan, as part of the consent documentation to resolve the PCT appeal.
 - 20 Mr Girvan's assessment takes into account the criteria set out in Policy 2.4.4.1 – see in particular Appendix 1 of his report, which explains the landscape attributes applied in the assessment with reference to a range of earlier assessments, including those that Policy 2.4.4.1 is based on, and Appendix 2, which sets out the assessment of the revised ONLs and SNLs with reference to those attributes. In addition, at section 3.4 of his report, Mr Girvan explains the rating approach used in Appendix 2, with reference to Policy 2.4.4.2.
 - 21 The consequential changes to the landscape values identified at Appendix A3 of the Plan have been informed by this evidence.
 - 22 On this basis, I consider that the agreed changes to overlay mapping and to Appendix A3 are the most appropriate way to achieve Objective 2.4.4.

3.0 Provisions to manage effects on the values of ONLs, SNLs and NCCs

3.1 Background

- 23 Appeals in this topic, from both PCT and Taylor, focus on provisions that manage the effects of buildings and structures on landscape values within ONLs and SNLs, and on coastal character values within Natural Coastal Character overlay zones (**NCCs**).
- 24 The 2GP's ONL and SNL overlay zones are described in section 2 above. The NCC overlay zone forms part of the 2GP's hierarchy of coastal character overlay zones, the values of which are to be preserved or enhanced in accordance with Objective 2.4.5 of the Plan. The Outstanding Natural Coastal Character (**ONCC**) and High Natural Coastal Character (**HNCC**) overlay zones are used to identify areas of exceptional or high natural coastal character; like ONFs, these areas tend to be small in extent. The NCC overlay zone represents areas where natural character is of less than high significance but restoration or enhancement of natural character will be promoted. It covers larger areas of Dunedin's coast, including a long stretch of coast from Taieri Mouth to Blackhead in the south of the DCC area, and several areas on the north coast from Blueskin Bay to the Pleasant River estuary and around Dunedin Harbour and the Otago Peninsula. The approach taken in the 2GP is to use one set of rules for the larger landscape and coastal character overlays (ONLs, SNLs and NCCs), and a second, more restrictive set of rules for the smaller overlays (ONFs, ONCCs and HNCCs), although different policies apply within each separate overlay. This approach to rules recognises the fact that, in the larger overlays, more restrictive rules would have a more significant adverse effect on productive rural activities taking place in these rural environments, so there is a greater need to balance protection of identified values with consideration of effects on productive activities.
- 25 The ONL, SNL and NCC overlay zones are present within rural, rural residential and recreation zones in the decisions version of the 2GP. As set out above, a small area of SNL has also now been added to an established settlement (zoned residential), at Pukehiki on the Otago Peninsula. Under the 2GP structure, an applicant seeking to establish an activity in an ONL, SNL or NCC should first check the activity status table for the zone in which the activity would be located – the relevant activity status tables can be found in Section 15 Residential Zones, Section 16 Rural Zones, Section 17 Rural Residential Zones, and Section 20 Recreation Zone. The table provides an activity status for each land use, development or subdivision activity in the relevant zone and overlay, and also sets out the performance standards that apply. Where resource consent is required for an activity in an ONL, SNL or NCC, the assessment guidance in the zone section links through to relevant assessment guidance (including matters of discretion) in Section 10 Natural Environment, which in turn refers to relevant objectives and policies in Section 10. Therefore,

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provisions relevant to the management of buildings and structures in landscape overlays are located across both Section 10 and the four relevant zone sections.

- 26 The key controls applying to buildings and structures in ONLs, SNLs and NCCs are as follows (note that the agreed controls at Pukehiki are less restrictive, due to the residential zoning of this area – see details at paragraphs 46-51 below):
- (a) Resource consent for a controlled activity is required for the establishment of a building over 60m² in area in a pre-identified landscape building platform (for example, an LBP that was identified at the time of subdivision). Matters of control are the size, design and location of buildings;
 - (b) Outside LBPs, resource consent for a restricted discretionary activity is required for any building or structure over 60m² in area (and also for additions or alterations that result in a building or structure exceeding 60m² in area). The matters of discretion are “effects on landscape values” in ONLs and SNLs, and “effects on coastal character values” in NCCs. The values themselves are set out in appendices to the 2GP (Appendix A3 for landscape values and Appendix A5 for coastal character values); and
 - (c) Permitted buildings and structures (i.e. those 60m² or less in area) must comply with a standard that limits the number of such buildings per site, and that generally requires them to be located within 30m of a larger (>60m²) building. In addition, all buildings and structures must comply with limits on height, and on the maximum reflectivity of exterior surfaces. Contravention of any of these standards results in restricted discretionary activity status, with assessment of effects on landscape values in ONLs and SNLs, and on coastal character values in NCCs.
- 27 In his submission on the 2GP², Bruce Taylor sought that farm sheds of any size should be allowed to be built without the need for resource consent in rural zones. The Natural Environment Hearing Panel decided to reject this submission, on the basis that controls on buildings and structures were necessary to protect the values of ONLs, SNLs and NCCs.
- 28 In his appeal on the Plan, Mr Taylor sought the same change requested in his submission. His main concern was to ensure that rules applying in

² The DCC reference number for this submission is OS664.2.

overlays were enabling of the size of shed required for normal farming activities in rural zones.

- 29 HPPC (now PCT) requested a number of changes to 2GP rules in its submission, with the aim of increasing protection of landscape values. A complex set of rules was requested to limit the permitted area of buildings in landscape and coastal character overlay zones, with different area limits requested for buildings associated with different activities.³ Non-complying activity status was sought where the requested thresholds were exceeded. A 350m² limit was requested for buildings and structures associated with residential activities. The Natural Environment Hearing Panel decided to reject this submission, on the basis of evidence from the Reporting Officer and from Mike Moore, landscape architect for the DCC, that restricted discretionary activity status for all buildings >60m² in ONLs, SNLs and NCCs (outside landscape building platforms) was the most appropriate management approach.
- 30 PCT's appeal requested the addition of rules for buildings and structures in the landscape and coastal character overlay zones that would:
- (a) Limit the total area of buildings and structures on a site to the lesser of 2% of the total site area, or 700m²; and
 - (b) Limit the area of residential buildings to 350m².
- 31 Non-complying activity status was requested for contravention of these rules.

3.2 Agreement reached

- 32 The parties have agreed that the following changes should be made to the 2GP:
- (a) In response to the Taylor appeal, amend the notification rule applying in rural zones (Rule 16.4.1) so that, when buildings or structures to be used for farming in these zones trigger the need for resource consent because they exceed 60m² in area and are located in a landscape or coastal character overlay zone, the resource consent application will normally be considered without the need for either public notification or written approval from affected persons. See details in Appendix A of the "Farm buildings in landscape and coastal character overlays" consent memorandum.

³ The DCC reference number for this submission is OS447.133.

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- (b) In response to the PCT appeal, amend provisions in landscape and coastal character overlays so that a single residential building over 400m² gross floor area becomes a fully discretionary, rather than a restricted discretionary, activity. As a result of this amendment, a general reformatting of the provisions relating to the area, number and location of buildings and structures within SNLs, ONLs and NCCs has also been agreed. This reformatting does not change the effect of the provisions (except as described in the first sentence of this paragraph), but rather uses a single performance standard (Rule 10.3.5) to manage area, number and location of buildings and structures in these areas, instead of the existing, potentially confusing, mixture of activity status rules and performance standards. This reformatting involves changes to Rule 10.3.5, and to a range of other activity status rules, performance standards and assessment rules in sections 10, 16, 17 and 20 of the Plan – see details in paragraph 5(f) and Appendix B of the “Location of landscape overlays...” consent memorandum.
- (c) In response to the PCT appeal, add assessment guidance to indicate that when new large buildings or structures (over 60m² footprint) are established via resource consent in landscape and coastal character overlays the Council will consider whether conditions should be added to the consent to limit the number and location of small buildings that can be established on the site in the future. This guidance is added to assessment rules 10.5.3.6, 10.5.3.7, 10.7.3.X and 10.7.3.Y. See details in Appendix A of the “Location of landscape overlays...” consent memorandum.

3.3 Section 32AA Assessment

- 33 The 2GP strategic objectives that are most relevant to the agreed changes set out above are Objectives 2.4.4 and 2.4.5. Policies 2.4.4.3 and 2.4.5.3 set out the methods used in the Plan to implement these objective with regard to management of activities within protected landscapes and coastal character areas. These objectives and policies are as follows:

Objective 2.4.4

Dunedin's outstanding and significant natural landscapes and natural features are protected.

Policy 2.4.4.3

Protect the values in identified Outstanding Natural Feature (ONF), Outstanding Natural Landscape (ONL) and Significant Natural Landscape

(SNL) overlay zones by listing these values in Appendix A3 and using rules that:

- a. prohibit certain activities in ONFs;
- b. require resource consent for activities in ONFs, ONLs and SNLs, where they may be incompatible with the values of the area; and
- c. restrict the scale of development in ONFs, ONLs and SNLs and ensure the design of development is appropriate.

Objective 2.4.5

The natural character of the coastal environment is preserved or enhanced.

Policy 2.4.5.3

Protect and enhance the natural character values in Outstanding Natural Coastal Character (ONCC), High Natural Coastal Character (HNCC) and Natural Coastal Character (NCC) overlay zones through listing natural character values in Appendix A5 and using rules that:

- a. prohibit certain activities in ONCCs and HNCCs;
- b. require resource consent for activities in ONCCs, HNCCs and NCCs, where they may be incompatible with the values of the area;
- c. restrict the scale of development in ONCCs, HNCCs and NCCs and ensure the design of development is appropriate; and
- d. promote restoration of natural character.

- 34 In the Natural Environment section of the Plan (Section 10), Objectives 10.2.3 and 10.2.5 specify the outcomes to be achieved by development occurring within identified landscape and coastal character overlays, as follows:

Objective 10.2.3

Areas of outstanding natural coastal character (ONCC), high natural coastal character (HNCC), and natural coastal character (NCC) are protected from inappropriate use and development; and their values, as identified in Appendix A5, are preserved or enhanced.

Objective 10.2.5

Outstanding Natural Features (ONFs), Outstanding Natural Landscapes (ONLs) and Significant Natural Landscapes (SNLs) are protected from inappropriate development; and their values, as identified in Appendix A3, are maintained or enhanced.

- 35 The objectives that set out the main purposes of the residential, rural, rural residential and recreation zones are also relevant, because the agreed changes affect activities in these zones. These read as follows:

Objective 15.2.1

Residential zones are primarily reserved for residential activities and only provide for a limited number of compatible activities, including: visitor accommodation, community activities, major facility activities, and commercial activities that support the day-to-day needs of residents.

Objective 16.2.1

Rural zones are reserved for productive rural activities and the protection and enhancement of the natural environment, along with certain activities that support the well-being of communities where these activities are most appropriately located in a rural rather than an urban environment.

Objective 17.2.1

The rural residential zones enable lifestyle blocks, hobby farms and associated residential activities as the appropriate place in the rural environment for these to occur, and provide for a limited range of other compatible activities.

Objective 20.2.1

The Recreation Zone provides opportunities for a wide range of recreational, sporting, community, and cultural activities.

- 36 Firstly, I consider that the amendment to the notification rule for rural zones, in response to the Taylor appeal, appropriately balances protection of landscape and coastal character values under objectives 2.4.4, 2.4.5, 10.2.3 and 10.2.5 with provision for productive rural activities in rural zones, under objective 16.2.1. Following this agreed change, resource consent will still be needed for buildings and structures that exceed 60m² in area in ONLs, SNLs and NCCs, but where they are to be used for farming, the resource consent application will normally be considered without the need for either public notification or written approval from affected persons. This change provides greater certainty over both the costs and the length of the consent process, for farmers seeking to establish farm buildings in these

areas, because it significantly reduces the possibility of a hearing being required. This more enabling approach to buildings associated with farming also reflects a key purpose of the rural zones. I do not consider that this change poses a risk to landscape or coastal character values, because the Council retains the ability to impose conditions or to decline consent, if a landscape assessment indicates that this is necessary to protect these values.

- 37 Secondly, I am satisfied that the change in provisions for single residential buildings over 400m² gross floor area in ONLs, SNLs and NCCs, agreed in response to PCT's appeal, is appropriate to give effect to the relevant 2GP objectives set out above. Under the decisions version of the rules, restricted discretionary resource consent is already required for all buildings over 60m² in area, with the assessment restricted to effects on identified landscape values in ONLs and SNLs, and to effects on identified natural character values in NCCs. Therefore, the effect of the agreed change is to adjust the activity status of single residential buildings over 400m² GFA in these areas from restricted discretionary to fully discretionary. The same three policies would still be of particular relevance to an activity of this kind, i.e. Policy 10.2.3.5 in NCCs, Policy 10.2.5.8 in ONLs and Policy 10.2.5.9 in SNLs. These policies read as follows:

Policy 10.2.3.5

Only allow [list of specified activities, including large buildings and structures] in the Natural Coastal Character Overlay Zone (NCC) where adverse effects on the natural character values identified in Appendix A5 will be avoided or, if avoidance is not practicable, no more than minor.

Policy 10.2.5.8

Only allow [list of specified activities, including large buildings and structures] in the Outstanding Natural Landscape Overlay Zone (ONL) where any adverse effects on the landscape values of the ONL, as identified in Appendix A3 are:

- a. insignificant, or
- b. where there are no practicable alternative locations, adequately mitigated.

Policy 10.2.5.9

Only allow [list of specified activities, including large buildings and structures] in the Significant Natural Landscape Overlay Zone (SNL) where

adverse effects on the landscape values of the SNL, as identified in Appendix A3, are avoided or, if avoidance is not practicable:

- a. no more than minor or;
- b. where there are no practicable alternative locations, adequately mitigated.

- 38 However, following the agreed change, it would be possible for decision-makers to consider any other relevant effects that may not covered via the values of the ONL, SNL or NCC identified in appendices A3 and A5 of the Plan, such as effects on amenity.
- 39 In terms of the potential costs of this change to provisions, advice from DCC Building Control indicates that a single residential building of 400m² or more in the rural environment would be unusually large, so discretionary status is unlikely to be triggered frequently. Also, a single residential building of this size is not likely to be necessary to the operation of productive rural activities, or for other activities provided for in rural, rural residential or recreation zones (e.g. rural tourism, rural research, domestic animal boarding and breeding, community and leisure, sport and recreation, and conservation activities). Where the discretionary status is triggered, the change in costs for the applicant is not likely to be significant, given that resource consent would already be needed, and a landscape assessment would already be likely to be required, under existing rules.
- 40 Therefore, I consider that the agreed 400m² gross floor area threshold for discretionary activity status – for single residential buildings only, rather than for buildings and structures in general – will be an effective and efficient means of protecting landscape and coastal character values in accordance with Objectives 2.4.4, 2.4.5, 10.2.3 and 10.2.5, but in a way that will be consistent with the key purposes of the rural, rural residential and recreation zones set out in Objectives 16.2.1, 17.2.1 and 20.2.1.
- 41 As explained in paragraphs 17(c) and 17(d) above, certain changes have also been made to the provisions that apply to activities in ONLs and SNLs, as a consequence of the agreed expansion of both overlays in response to PCT's appeal, which creates intersects between the SNL Overlay Zone and the Pukehiki Township and Settlement Zone, and between the ONL Overlay Zone and land zoned Rural Residential 2 at Orokonui and Portobello.
- 42 These consequential changes add provisions to manage landscape values in SNLs to 2GP Section 15 Residential Zones (this is required because prior to the agreed expansion of the SNL, there was no intersect between

residential zones and SNLs), and add provisions to manage landscape values in ONLs to 2GP Section 17 Rural Residential Zones (again, required because prior to the agreed expansion of the ONL, there was no intersect between rural residential zones and ONLs).

- 43 The changes required to add provisions for ONLs to the rural residential zones section require less discussion. As outlined above, the approach taken in the 2GP is generally to apply the same set of rules to activities in SNLs and activities in ONLs, although where resource consent is required, the policy framework against which the activity is assessed differs between SNLs and ONLs.
- 44 Therefore, the changes needed to Section 17 to add reference to activities in ONLs are relatively straightforward; activities in SNLs are already referenced, so the changes to rules simply involve adding references to ONLs, wherever SNLs are currently referred to. This includes at the headings of relevant columns in the activity status tables, at Rule 17.6.X (reformatted) in relation to the area, number and location of buildings and structures in SNLs, ONLs and NCCs, and at Rule 17.6.6, which manages the number, location and design of signs in landscape overlay zones and other areas.
- 45 Additional changes are required to insert reference to ONLs in assessment rules for various activities in rural residential zones (in rules 17.8.2, 17.9.6 and 17.10.5). These references provide links to assessment guidance in Section 10 Natural Environment. Under this assessment guidance, activities within ONLs in rural residential zones are assessed against the same policies as activities within ONLs in rural zones. I consider that this is appropriate, and in keeping with objectives 2.4.4 and 10.2.5 set out above.
- 46 The changes required to add provisions for SNLs to the residential zones section are more extensive, because in the decisions version of the Plan there is no intersect between any landscape or coastal character overlay and any residential zone. Also, it would not be appropriate to duplicate, in an SNL in a residential zone, the methods used to manage the landscape effects of buildings and structures in SNLs in rural and rural residential zones. If this approach (which, as described above, includes a resource consent requirement for any building over 60m², and for the establishment of more than three small buildings within 30m of an existing large building) was used in residential zones, it would be contrary to the key purpose of residential zones in enabling the use of land for housing.

- 47 Therefore, a more lenient set of provisions has been designed for the management of buildings and structures in the SNL at the Pukehiki Township and Settlement Zone, in consultation with Rhys Girvan. These provisions are intended to better balance management of effects on landscape values with provision for residential activity. They include:
- (a) A 250m² permitted limit on the area of buildings and structures (via amendment to Rule 10.3.5.1, and the addition of new cross-referencing Rule 15.6.X);
 - (b) A 5m permitted limit on the height of buildings and structures (via amendment to Rule 15.6.6.2.v); and
 - (c) A limit on the maximum permitted reflectivity of the exterior of buildings and structures, with exceptions for certain building elements such as windows and other glass exteriors (via the addition of new cross-referencing Rule 15.6.Y, which links to existing Rule 10.3.6 Reflectivity).
- 48 Restricted discretionary activity status applies for contravention of any of these limits, with discretion restricted to effects on landscape values. New assessment guidance (at Rule 15.10.6.X) is added to Section 15, to link to relevant guidance in Section 10 Natural Environment. Under this guidance, the activities would be assessed against the same policies that would apply to activities contravening permitted height, area and reflectivity standards within SNLs in rural and rural residential zones (i.e. Policy 10.2.5.9 in relation to the size of buildings, and Policy 10.2.5.12 in relation to their reflectivity). I consider that this is appropriate, and in keeping with objectives 2.4.4 and 10.2.5 set out above.
- 49 The costs of these new rules will fall on landowners at Pukehiki, who will be subject to new restrictions that may result either in changes to the design of new buildings and structures, or in the need to apply for resource consent, which may involve commissioning a landscape assessment. However, the new standards would allow for the development of a large single storey dwelling and ancillary buildings on affected sites, without the need for resource consent provided that the reflectivity control was met. Advice from DCC research and monitoring staff indicates that the average size for new homes across the city in the five years to May 2021 was 185m². Therefore, in many cases, it should be feasible to avoid resource consent costs via compliance with the standards.
- 50 The new rules will manage larger and more visually prominent buildings at Pukehiki, and their key benefit will be to manage effects on the area's landscape values, which are considered by Rhys Girvan, landscape

PW JM

architect acting for the DCC, to be sufficient to warrant the inclusion of the settlement in the wider Inner Peninsula Bays SNL (see 2GP Landscape Overlays report, section 5.6, pp 21-22, attached to Mr Girvan's affidavit).

- 51 Overall, therefore, I am satisfied that the new provisions applying to buildings and structures within the Pukehiki Township and Settlement Zone appropriately balance achievement of objectives 2.4.4 and 10.2.5 in relation to protection of landscape values, and consistency with Objective 15.2.1 in relation to provision for residential activity.

4.0 Provisions to manage effects on character and amenity in the Hill Slopes Rural Zone and in rural residential zones

4.1 Background

- 52 This topic consists of one appeal, from PCT, seeking changes to 2GP provisions for the management of effects on character and amenity in the Hill Slopes Rural Zone and in rural residential zones.
- 53 Dunedin's large rural environment, which makes up approximately 96% of the total land area of the city, is divided into seven rural zones in the 2GP, based on the diverse characteristics of these areas including existing patterns of land use and subdivision, landscape and rural character values.
- 54 The values of the Hill Slopes Rural Zone are described in Appendix A7.5 of the Plan, and include: proximity to urban Dunedin, with this rural zone providing a predominantly unbuilt natural backdrop to the central city, harbour and Mosgiel; distinctive hill features such as Harbour Cone, Signal Hill, Mt Cargill, Flagstaff and Swampy Summit; frequent use for recreational activities; a relatively low density of built structures and associated services, with natural character still largely dominant; and pockets of important and varied biodiversity.
- 55 The main purpose of the 2GP's rural residential zones is to provide an appropriate location for lifestyle blocks or hobby farms. In the 2GP, there are two types of rural residential zone. The first is the Rural Residential 1 (RR1) Zone, which is based on the rural residential zones in the Operative District Plan (ODP), and which has a minimum site size of 2ha for residential activity (density and subdivision). The second is the Rural Residential 2 (RR2) Zone, which was created in the 2GP as a means of managing development within the large numbers of existing 'undersized' rural sites (i.e. sites below the ODP's 15ha minimum site size for residential activity in the rural zone). RR2 zoning was applied to clusters of these undersized sites, some of which already contained dwellings. This zoning

provides for one house per existing site over one hectare and makes further subdivision non-complying.

- 56 The methods used in the 2GP to maintain character and amenity values in rural and rural residential zones are as set out in strategic policy 2.4.6.2, and include the use of:
- (a) Rules that limit the density of residential activities, and that manage the pattern, scale and design of subdivision;
 - (b) Rules that manage the bulk and location of buildings (i.e. maximum height and minimum setback from boundaries); and
 - (c) Policies and assessment rules that require or encourage the consideration of effects on character and visual amenity associated with land use and development activities.
- 57 HPPC (now PCT)'s submission requested new rules to limit the permitted area of buildings in the Hill Slopes Rural Zone⁴, with the aim of increasing protection of rural character and amenity values in this zone. Non-complying activity status was sought where the requested thresholds were exceeded. A 350m² limit was requested for buildings and structures associated with residential activities.
- 58 The Rural Zones Hearing Panel decided to reject this submission on the basis of evidence from the Reporting Officer that the requested rules were overly prescriptive and unnecessarily onerous. The Panel did consider, as an alternative to the requested relief, the possibility of introducing a limit on proportion of a site that could be covered by buildings, and sought advice from Mike Moore, the landscape architect providing evidence for the DCC, on this approach. Mr Moore considered that a maximum gross built site coverage standard of 2% would strengthen the amenity protection applying within rural zones.
- 59 The Panel concluded: *"We do have some sympathy for the notions expressed in the submission, and in the evidence of the DCC's expert landscape architect, that there may be some merit in taking a precautionary approach toward possible future proliferation of buildings and structures in the rural zones. We do not have the scope from this submission to provide a workable cross-city rule and acknowledge that most of Mr Moore's suggested methods were outside the scope of the submission."*

⁴ The DCC reference number for this submission point is OS447.5

ph JM

- 60 PCT's appeal requested the addition of rules for buildings and structures in the Hill Slopes Rural Zone that would:
- (a) Limit the total area of buildings and structures on a site to the lesser of 2% of the total site area, or 700m²; and
 - (b) Limit the area of residential buildings to 350m².
- 61 Non-complying activity status was requested for contravention of these rules.
- 62 The HPPC submission contained a range of requested changes to the policy framework for the management of amenity and character in rural residential zones, including:
- (a) A requested change to Objective 17.2.2 to require that activities in rural residential zones maintain a higher level of amenity for surrounding sites⁵;
 - (b) Addition of a new policy under Objective 17.2.2 to require that buildings and structures in rural residential zones be limited in size and quantity, in order to manage effects on the "values" of these areas⁶; and
 - (c) A requested change to Policy 17.2.3.3 in relation to management of effects on character and visual amenity for a range of activities in rural residential zones (specifically, rural tourism, rural research, community and leisure – large scale, early childhood education, sport and recreation, veterinary services, and visitor accommodation), to require that effects be "avoided or mitigated" to maintain the amenity of surrounding sites.⁷
- 63 The Hearing Panel for the Rural Residential Zones rejected these requested changes to rural residential zone objectives and policies, on the basis that they would introduce "unrealistic expectations" with regard to amenity in these zones.
- 64 PCT's appeal requested that Policy 17.2.3.3, cited above, and associated assessment guidance, be amended to broaden the assessment from

⁵ The DCC reference number for this submission point is OS447.105.

⁶ The DCC reference number for this submission point is OS447.107.

⁷ The DCC reference number for this submission point is OS447.110.

consideration of effects on “visual amenity” or “amenity” to consideration of effects on “amenity values” or “amenity values and naturalness”.

4.2 Agreement reached

65 The parties have agreed that the following changes should be made to the 2GP, in response to PCT’s appeal on this topic:

- (a) Add a new performance standard (Rule 16.6.X.2) in the Hill Slopes Rural Zone to limit the maximum permitted gross floor area for a single residential building to 400m² gross floor area, with restricted discretionary activity status applying beyond that threshold (and the assessment restricted to effects on rural character and amenity). In consequence, add associated policy (16.2.3.X) and assessment rule (16.9.4.X). See details in Appendix B of the “Location of landscape overlays...” consent memorandum. The agreed wording of new Policy 16.2.3.X is as follows:

Require residential buildings in the Hill Slopes Rural Zone to be of a size that avoids adverse visual effects or, if avoidance is not practicable, ensure effects are no more than minor.

- (b) Amend the wording of a policy that manages a range of activities in rural residential zones (Policy 17.2.3.3) so that it manages effects on “rural residential character and amenity” rather than “rural residential character and visual amenity”. Make consequential amendments to the paraphrasing of the wording of Policy 17.2.3.3 in assessment rules 17.10.2.1 and 17.11.2.1, and to the wording of the matter of discretion in Rule 17.10.2.1. See details in Appendix B of the “Location of landscape overlays...” in the consent memorandum.

4.3 Section 32AA Assessment

66 The 2GP strategic objective that is most relevant to the agreed changes set out above is Objective 2.4.6 (noting that the term ‘rural environment’ is used in the Plan to refer to both the rural and the rural residential zones). Policies 2.4.6.1 and 2.4.6.2 set out the methods used in the Plan to achieve this objective. These provisions are as follows:

Objective 2.4.6 Character of Rural Environment

The character and visual amenity of Dunedin's rural environment is maintained or enhanced.

Policy 2.4.6.1

Identify the important character and visual amenity values of different rural environments that should be maintained, and use these as part of the determination of rural zones that require different management approaches. Identify and list these values in Appendix A7 based on the following:

- a. landform and naturalness;
- b. open space characteristics;
- c. nature, scale and design of buildings;
- d. density of development;
- e. nature, scale and types of productive uses; and
- f. presence of indigenous vegetation and habitats for indigenous fauna.

Policy 2.4.6.2

Maintain the identified values within different rural environments through mapping rural zones and using:

- a. rules that limit the density of residential activities;
- b. rules that manage the bulk and location of buildings;
- c. policies and assessment rules that require or encourage the consideration of effects on rural character and visual amenity associated with land use and development activities; and
- d. rules that manage the pattern, scale and design of subdivision.

- 67 In the Rural Zones and Rural Residential Zones sections of the Plan (Sections 16 and 17), Objective 16.2.3 and Objective 17.2.3 specify the elements of the character and amenity of each zone that Plan provisions seek to maintain/enhance. These objectives are as follows:

Objective 16.2.3

The rural character values and amenity of the rural zones are maintained or enhanced, elements of which include:

- a. a predominance of natural features over human made features;

- b. a high ratio of open space, low levels of artificial light, and a low density of buildings and structures;
- c. buildings that are rural in nature, scale and design, such as barns and sheds;
- d. a low density of residential activity, which is associated with rural activities;
- e. a high proportion of land containing farmed animals, pasture, crops, and forestry;
- f. extensive areas of indigenous vegetation and habitats for indigenous fauna; and
- g. other elements as described in the character descriptions of each rural zone located in Appendix A7.

Objective 17.2.3

The character and amenity of the rural residential zones are maintained, elements of which include:

- a. a high presence of natural features such as trees, bush, gully systems and water bodies;
- b. a semi-rural level of development, with a higher proportion of open space and lower density of buildings than in urban areas; and
- c. land maintained and managed for farming, grazing, conservation and rural residential activities.

- 68 The following objectives that set out the main purposes of the rural and rural residential zones are also relevant, because the agreed changes affect activities in these zones. These read as follows:

Objective 16.2.1

Rural zones are reserved for productive rural activities and the protection and enhancement of the natural environment, along with certain activities that support the well-being of communities where these activities are most appropriately located in a rural rather than an urban environment.

Objective 17.2.1

The rural residential zones enable lifestyle blocks, hobby farms and associated residential activities as the appropriate place in the rural

environment for these to occur, and provide for a limited range of other compatible activities.

- 69 I am satisfied that the agreed new performance standard in the Hill Slopes Rural Zone, to limit the maximum permitted gross floor area for a single residential building to 400m² gross floor area, is appropriate to give effect to the relevant 2GP objectives set out above. Advice from DCC Building Control indicates that a single residential building of this size would be unusually large in this zone. Also, unlike a farm building of a similar size, it would not be likely to be necessary to the operation of productive rural activities. I note that, during the hearing, the landscape architect for the DCC supported the introduction of a standard to manage potential amenity effects from large areas of built form in rural zones. He recommended a 2% maximum site coverage rule rather than an area limit for residential buildings; however, a site coverage rule of this kind would be excessively restrictive for smaller rural sites. For example, at a 1ha site, this rule would limit the total area of buildings to 200m². A report produced by DCC staff in advance of 2GP notification⁸ indicates that the median site size for the Hill Slopes Rural Zone in 2013 was 3.8ha, and there were over 350 sites of 1ha or under in that zone.
- 70 I consider that the agreed wording of new Policy 16.2.3.X, shown at paragraph 65(a) above, is appropriate to achieve Objective 16.2.3. I note the policy wording follows the 2GP style guide. In contrast to the change to the rural residential policy (17.2.3.3) discussed below, the reference to visual amenity in this policy reflects that the issue being managed through controls on the size of residential buildings is their potential effect on visual amenity.
- 71 Therefore, I consider that the agreed 400m² gross floor area limit – for single residential buildings only, rather than for buildings and structures in general – and the associated addition to the Plan of new Policy 16.2.3.X will be an effective and efficient means of addressing the issue and maintaining rural character and amenity in accordance with Objectives 2.4.6 and 16.2.3, but in a way that will be consistent with the overall purpose of rural zones set out in Objective 16.2.1, in relation to productive rural activities.
- 72 The agreed change to the policy that manages the effects on character and amenity of rural tourism, rural research, community and leisure – large

⁸ Site and Property Size Distribution in Dunedin's Rural Zones (City Development, 2013), pages 16-17
https://2gp.dunedin.govt.nz/2gp/documents/Section32_Background_Documents/Rural/Rural%20Site%20Propery%20Distribution%20technical%20report%202013.pdf

Ph JM

scale, early childhood education, sport and recreation, veterinary services, and visitor accommodation in rural residential zones (Policy 17.2.3.3) is relatively minor. As shown on page 27 of Appendix B of the "Location of landscape overlays..." consent memorandum, the change deletes reference to the term "visual", so that the policy reads "Only allow [*specified activities*] where any adverse effects from development on rural residential character and ~~visual~~ amenity will be avoided or, if avoidance is not practicable, adequately mitigated."

- 73 I note that the change reflects the wording of the objective that this policy sits below (Objective 17.2.3, shown on page 25 above), which refers to the "character and amenity of the rural residential zones". I consider that the change is appropriate, both to align the policy wording with the objective wording, and to recognise the fact that the activities referred to in the policy may have effects on amenity that are not (or not solely) related to visual amenity – e.g. effects from alteration to natural features such as vegetation, effects from increased noise or traffic, etc.

5.0 Consistency with higher order documents (sections 74 and 75)

- 74 Policy 15 of the New Zealand Coastal Policy Statement 2010 (**NZCPS**) relates to natural features and natural landscapes in the coastal environment. It sets out steps to be taken to protect these areas from inappropriate subdivision, use, and development, including by identifying these areas according to a set of specified criteria, and managing the effects of activities taking place there. Under the policy, more restrictive effects-tests apply in higher value areas.
- 75 The partially operative Otago Regional Policy Statement (**RPS**) Objective 3.1 is "The values (including intrinsic values) of ecosystems and natural resources are recognised and maintained, or enhanced where degraded". Policy 3.1.11 concerns natural features, landscapes and seascapes, and reads as follows:
- Recognise the values of natural features, landscapes and seascapes are derived from the biophysical, sensory and associative attributes in Schedule 3.
- 76 Schedule 3 of the RPS sets out criteria for the identification of outstanding and highly valued natural features, landscapes and seascapes.
- 77 Objective 3.2 of the RPS is "Otago's significant and highly-valued natural resources are identified, and protected or enhanced where degraded". Policies 3.2.3 and 3.2.5 concern the identification outstanding and highly

PH JM

valued natural landscapes, using the Schedule 3 criteria. Policies 3.2.4 and 3.2.6 describe how these areas should be managed.

- 78 I note that all RPS provisions cited above are now operative.
- 79 In the 2GP, Objective 2.4.4 and associated policies 2.4.4.1 to 2.4.4.3 give effect to the parts of the NZCPS and RPS set out above.
- 80 As set out above, I am satisfied that the changes agreed in the consent memoranda are consistent with Objective 2.4.4. Therefore, I consider that they give effect to the NZCPS and RPS.
- 81 The Proposed Otago Regional Policy Statement 2021 also contains provisions relevant to the agreed changes, in the Natural features and landscapes (**NFL**) and Urban form and development (**UFD**) topic sections. In the NFL topic section, the relevant objective is as follows:

NFL-O1 – Outstanding and highly valued natural features and landscapes

The areas and values of Otago's outstanding and highly valued natural features and landscapes are identified, and the use and development of Otago's natural and physical resources results in:

1. the protection of outstanding natural features and landscapes, and
 2. the maintenance or enhancement of highly valued natural features and landscapes.
- 82 Policy NFL-P1 concerns the identification of outstanding and highly valued natural features and landscape, and reads as follows:

NFL-P1 – Identification

In order to manage outstanding and highly valued natural features and landscapes identify:

1. the areas and values of outstanding and highly valued natural features and landscapes in accordance with APP9, and
 2. the capacity of those natural features and landscapes to accommodate use or development while protecting the values that contribute to the natural feature and landscape being considered outstanding or highly valued.
- 83 Appendix APP9 sets out criteria for the identification of outstanding and highly valued natural features, landscapes and seascapes.

- 84 Policies NFL-P2 and NFL-P3 describe how effects should be managed, in order to protect outstanding natural features and landscapes and maintain or enhance highly valued natural features and landscapes.
- 85 I consider that the relevant provisions of the 2GP, in particular Objective 2.4.4 and associated policies 2.4.4.1 to 2.4.4.3 broadly align with the provisions of the proposed RPS set out above. As set out above, I am satisfied that the changes agreed in the consent memoranda are consistent with Objective 2.4.4.

6.0 Assessment of other appeals

- 86 I have considered whether there are other appeals on the provisions amended by the two consent memoranda, to understand whether there is overlap between different appeals on the same provisions in the Plan. There are no other appeals that have the potential to affect any of the provisions or mapping amended by these consent memoranda, with the exception of the outstanding unresolved part of PCT's appeal, referred to at paragraph 9 above, which seeks a further change to Rule 10.3.5.2. While this outstanding appeal point could affect Rule 10.3.5.2, it does not have the potential to alter the agreed change to that rule that is included in the PCT consent memorandum. The agreed change relates to the SNL at the Pukehiki Township and Settlement Zone, whereas the unresolved request relates to the operation of the rule within landscape and coastal character overlays in the rural and rural residential zones only.
- 87 I have also considered appeals on the relevant 2GP objectives, to ensure no appeals are likely to change the policy framework in a way that would alter the above section 32AA assessments.
- 88 Of the objectives referred to in these assessments, Objectives 2.4.4, 16.2.1 and 10.2.3 are under appeal.
- 89 Saddle Views Estate Limited (ENV-2018-CHC-283, DCC Reference number 323) and Tussock Top Farms Ltd (ENV-2018-CHC-282, DCC Reference number 301) seek the deletion of Objective 2.4.4. However, I note that a consent memorandum signed by all parties, dated 23 March 2021, resolves the relevant parts of the appeals from Saddle Views Estate Limited and Tussock Top Farms Limited with no change to Objective 2.4.4. The same two appeals (DCC Reference numbers 331 and 309) also seek changes to Objective 16.2.1. However, these are also resolved via the consent memorandum referred to above, with no change to the wording of the objective (other than a change that has already been made via the consent order issued by the Court on 13 August 2021, in response to an appeal from Blueskin Projects Limited and Others).

- 90 Affidavits supporting the agreed resolutions to the Saddle Views Estate Limited and Tussock Top Farms Ltd appeals (and resolutions to other appeals that overlap with them, for reasons unrelated to Objectives 2.4.4 and 16.2.1) are currently being completed by the DCC. It is anticipated that this consent documentation will be filed with the Court by December 2021.
- 91 Finally, Federated Farmers of New Zealand Incorporated (ENV-2018-CHC-254, DCC Reference number 175) seek an amendment to Objective 10.2.3, to replace the term “preserved” (in the context of “the values of coastal character overlay zones are preserved or enhanced”) with “maintained”. I note that a consent memorandum, signed by all parties, dated 20 April 2021, resolves this appeal via an amendment to the objective that would amend its wording as requested by Federated Farmers, in relation to the NCC Overlay Zone only. Affidavits supporting this agreed resolution (and resolutions to other appeals that overlap with it, for reasons unrelated to Objective 10.2.3) were filed, along with the consenting documentation, with the Court on 29 October 2021 and are currently on hold pending the Network Utilities Bundle of consenting documentation being filed with the Court (estimated to be 3 December 2021).
- 92 The agreed change to Objective 10.2.3 set out in the 20 April 2021 consent memorandum does not change my section 32AA assessment in section 3.3 above, relating to the change to rules for large residential buildings in NCCs.
- 93 Therefore, I am satisfied that no appeal on the Plan has the potential to amend the relevant objectives in a way that would change my assessment of the changes set out in the memoranda.

Affirmed at Dunedin
this 15th day November 2021,
before me:

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) 
Jane Elliot Macleod


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A Solicitor/Deputy Registrar of the High Court of New Zealand
Justice of the Peace

Peter Benjamin Williams
Solicitor
Dunedin