

**BEFORE THE ENVIRONMENT COURT
I MUA I TE KOOTI TAIAO O AOTEAROA**

IN THE MATTER	of the Resource Management Act 1991
AND	of an appeal under clause 14(1) of the First Schedule of the Act
BETWEEN	THE PRESERVATION COALITION TRUST (ENV-2018-CHC-285) Appellant
AND	DUNEDIN CITY COUNCIL Respondent

**MINUTE OF THE ENVIRONMENT COURT
(21 January 2020)**

Introduction

[1] On 20 December 2019 the court received an application for directions reporting on the agreement arising from the alternate dispute resolution meeting and proposing further conferencing and a timetable for the exchange of evidence if a hearing is required.

[2] The court issued interim directions¹ requiring the appellant to file and serve a memorandum in accordance with paragraphs 5(a) and 8 of the joint memorandum. The court confirms it has received a memorandum² from The Preservation Coalition Trust responding to paragraph 8 addressing Topic C matters. A response is not yet due in relation to the matters raised at paragraph 5(a).

Clarification of counsel's brief

[3] To assist the court, Mr Enright is to confirm that he is not acting on any of the provisions that are the subject matter of Topics B or C.

¹ Dated 20 December 2019.

² On behalf of The Preservation Coalition Trust Inc dated 20 January 2020.



Expert Conferencing

[4] In relation to the outstanding issues between the parties regarding the ONL, a timetable has been proposed in which parties have requested the landscape architects to attend a further facilitated conference regarding the following:

- (i) Their recommended positioning of the ONL overlay in the Map 2 area.
- (ii) Whether their recommended ONL overlay has any implications from a landscape experts' perspective for the Rural Residential 1 zone in the areas shown as **Annexure 2** and the Rural Residential 2 zone in the wider Map 2 area.

[5] Counsel have indicated that Ms Lucas and Mr Moore are available between 14 February 2020 and 21 February 2020. I have spoken with Mr Ross Dunlop who is available to facilitate in the week of **17 February 2020**.

"Will say" statements

[6] Where conferencing is scheduled to take place prior to evidence exchange, will say statements must be prepared by the relevant witnesses. These statements should, as a minimum, set out the key facts and assumptions relevant to the experts' field of expertise, identify the methodology and standards used in arriving at options and clearly explain the opinions arrived at.

[7] When doing so, I anticipate that the experts will address the issues identified at paragraph 4(a), (b) and (c) of the memorandum dated 20 December 2019.

Responsibilities of counsel

[8] Counsel are to provide their respective experts with a copy of the Environment Court's Expert Witnesses Code of Conduct (Part 7, Environment Court Practice Note 2014) and Protocol for Expert Witness Conferences (Appendix 3, Environment Court Practice Note 2014) and to brief them on their responsibilities under these. Particular attention is to be drawn to those parts which require experts to express their views independent of counsel and the parties who have engaged them.

[9] Participants are to be advised by counsel that expert witness conferencing is privileged except for the signed joint witness statement prepared by the experts following the conference, which will be part of the public record.



Scribe

[10] Counsel are to liaise on the provision of a suitable recorder to attend the conference and prepare the Joint Witness Statement under the direction of the experts. For small conferences (2 – 3 experts) this may be one of the experts, but it is preferable that a non-participant is made available for all conferences. Recorders are to be supplied with the necessary technical equipment, including a laptop computer.

[11] If a hearing is required, I will make the directions granting the proposed timetable as sought, following the receipt of the JWS.

Other Topics

[12] Counsel have requested that Topic B: RR2 outside Map 2, remain on hold pending the outcome of the ONL issue. I find this reasonable and will grant the request as sought.

[13] Counsel are to confer and propose directions required in relation to the Topic C matters addressed in The Preservation Coalition Trust memorandum dated 20 January 2020.

Directions

[14] I direct:

Expert Conferencing directions

- (a) Ms Lucas is to file her will say statement **14 days** prior to the conferencing as detailed;³
- (b) any other landscape architect is to provide their will say statement **seven days** prior to caucusing;
- (c) expert conferencing is to take place in the week of **17 February 2020** (a notice confirming the date and venue will issue in due course); and
- (d) counsel are to file and serve the JWS within **three working days** of the conference concluding.

³ At [5](b)(iii) of the Application for Directions dated 20 December 2019.



Other directions

(e) by **Friday 24 January 2020**:

- (i) counsel for the appellant is to confirm whether he is acting in relation to any of the Topic B and C matters;
- (ii) all counsel will confer and propose directions in relation to Topic C matters raised by this appeal.

(f) Topic B is to remain on hold, pending the ONL determination.

[15] Leave is reserved for any party to apply for further directions.


J E Borthwick
Environment Judge

Issued:

21 JAN 2020

