

**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<br>(ENV-2018-CHC-285)<br>Appellant |
| AND           | DUNEDIN CITY COUNCIL<br>Respondent                                  |

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**MINUTE OF THE ENVIRONMENT COURT**  
**(5 November 2019)**

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**Introduction**

[1] On 17 October 2019 the court received an application for directions which reported on the topics to the Preservation Coalition Trust's appeal and proposed a timetable for the exchange of evidence.

[2] On 22 October 2019 the court issued a Minute raising concerns with what counsel proposed and directed the Council to confer with parties and file memoranda addressing those concerns, setting out the list of issues to be determined and confirming the grouping and sequencing of points of appeal set out in the Appeal Management Topic Table. The court would then hear from the parties via a judicial telephone conference.

[3] The court has now received the following documents:

- (a) case management memorandum for Dunedin City Council dated 25 October 2019 responding to the court's concerns, confirming there is a dispute around the scope issue and proposing a submission timetable to deal with it as a preliminary matter;
- (b) memorandum of counsel for The Preservation Coalition Trust dated 29 October 2019 setting out their position, confirming the scope for appeal



point 70 should be resolved as a preliminary issue and consenting to the proposed submission timetable;

- (c) application for waiver to amend its notice of appeal to identify Rule 16.5.2.1(c) – density rule for the Hill Slopes Rural zone;
- (d) memorandum of counsel for the Dunedin City Council proposing that Mr Bathgate (a Council planner) file an affidavit by 4 November 2019 identifying the appeal points, preferred schedule and any identified linkages between appeal points; and
- (e) further memorandum of counsel for the Dunedin City Council requesting the affidavit be filed by Monday 11 November 2019 due to the planner being unwell this week.

[4] I have considered the above memoranda and will make the directions sought in relation to the scope issue and extension request and will set down a judicial telephone conference to hear from the parties once the Council's affidavit has been filed.

[5] On the matter of the issues to be resolved, I am not yet satisfied that the appellant has addressed the same. If this appeal is to be set down for a hearing it is likely that I will revisit the same. For now, I understand that all that is being proposed is the determination of the scope issue (appeal point 70(b)).

[6] Mr Bathgate will advise whether the parties are seeking a determination of rules and other methods and if so, then explain why, in his view, lower order provisions can be settled prior to the determination of the plan's objectives and policies. With the exception of the planning maps/overlays aside, the court would not usually adopt such an approach.

### Directions

[7] I direct:

#### *Substantive issues*

- (a) by **Monday 11 November 2019**:
  - (i) the respondent will file an affidavit by Mr Bathgate identifying the appeal points, preferred schedule and any identified linkages between appeal points;



- (ii) any party who wishes to oppose the application for waiver filed by The Preservation Coalition Trust should file and serve a notice of opposition, giving grounds (the court records that the Dunedin City Council has indicated it does not oppose);
- (b) the appeal will be set down for a telephone conference on **Wednesday 13 November 2019 at 10 am.**

*Scope issue*

- (c) by **Friday 15 November 2019** the parties must file an agreed bundle of documents establishing jurisdiction for the appellant to pursue this appeal point;
- (d) by **Friday 29 November 2019** submissions for the appellant in reliance on those documents must be filed and served;
- (e) by **Friday 13 December 2019** submissions for the Dunedin City Council and any s 274 party must to be filed and served;
- (f) by **Friday 20 December 2019** any submissions in reply must be filed and served.

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

  
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**J E Borthwick**  
**Environment Judge**

Issued: **05 NOV 2019**

