

BEFORE THE ENVIRONMENT COURT

AT CHRISTCHURCH

ENV 2018 CHC 285

I MUA I TE KOOTI TAIAO O AOTEAROA

OTAUTAHI ROHE

IN THE MATTER

of the Resource Management Act 1991 (RMA)

AND

IN THE MATTER

of an appeal under section 120 of the Act

BETWEEN

THE PRESERVATION COALITION TRUST

Appellant (ENV 2018 CHC 285)

AND

DUNEDIN CITY COUNCIL

Respondent

**THE PRESERVATION COALITION TRUST MEMORANDUM
RESPONSE TO ADR COURT DIRECTIONS OF 20 DECEMBER 2019**

**BY CRAIG WERNER
ON BEHALF OF THE PRESERVATION COALITION TRUST INC.**

20 January 2020

Filed by Craig Werner, authorized representative for Appellant

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May it please the Court:

- 1 This memorandum responds to the 12.12.19 ADR meeting agreement and M. Garbett 20 December application for direction and Judge Borthwick directions regarding item Topic C a. as shown below.
 - a. *PCT is to identify by 20 January 2020 what changes are sought to specific strategic direction policies related to the Rural Residential zoning in the 2GP, in addition to c above. When PCT has identified these policies, the Council will advise the Court what other appeals there are on related policies, for example Wyber, which would need to be considered together. This will be case managed in alignment with existing mediation agreements.*
- 2 The Preservation Coalition Trust (PCT) seeks the following underlined changes to DCC's 2GP Strategic Direction policies (28.08.19) related to Rural Residential zoning. These changes represent our present position with wording subject to change to reflect more accurate 'plan language' and required new definitions, subject to discussion. In addition, note that scope verification and position explanation justifications are not included, but anticipated as part of any further case management/DCC discussion.

Policy 2.6.1.3

Provide for new, additional rural lifestyle blocks and hobby farming through the application of rural residential zoning as follows:

- 3 a. Considering if rural residential zoning is appropriate for the site or sites based on the criteria outlined in Policy 2.6.1.4; and
- 4 b. if after reviewing the supply of rural residential zoned sites in the context of the next five years and increasing zone area for any likely land area reductions anticipated due to Plan changes, or reductions caused by local body land or government-driven acquisition, or the naturally caused loss of conventionally buildable zoned land areas, it is determined that in the previous five years, which are not classified as economically recessionary in New Zealand, the average annual number of tenure changes of rural residential zoned sites through sales or other means is more than 3% above the average annual number for the preceding period of five to ten years ago, then creation of new rural residential zoned sites is to be avoided. Otherwise any creation of new zones sites shall:
- 5 c. result from applying rural residential zoning to already fragmented land in separate land tenure as follows:
 - 6 i. where the site or sites are part of a cluster of sites at an average density of greater than 2ha and less than 4ha, Rural Residential 1 zoning is appropriate;
 - 7 ii. where the cluster comprises sites each under 15 ha with an average site size of generally between 4ha and 10ha, Rural Residential 2 zoning is generally appropriate, but Rural Residential 1 zoning may be appropriate if it can achieve a similar outcome in terms of the criteria in Policy 2.6.1.4:

8 iii. where the degree of rural residential zone expansion through Plan change rezoning is a number of new tenure holdings that is 5% or less than the number of vacant rural residential tenure holdings at the end of the previous calendar year.

iv. where the candidate site “clusters” are as identified in Plan Map _____, Appendix _____.

9 d. only after those options in c.i and c.ii are assessed as inappropriate or unfeasible, considering the rezoning of other rural sited of low productive capacity to rural residential zoning.

(Note that this policy is derived from and replaces the PCT Version of 2.6.1.3 published as DCC “Clean Version of redraft of Policies 2.6.1.3 – 2.6.1.5 – meeting of Emma Peters, Anna Johnson, Michael Bathgate 28/08/2019”. That PCT policy version was provided per a Group 1 mediation request by DCC.)

10 **Policy 2.6.1.4**

A single addition which is a change to the DCC’s policy version of 28.08.19 is shown below.

11 d. considering the Plan’s mapped features and attributes of the under MSS rural ‘clusters’ outlined in Appendix _____, the rezoning timing of appropriate sites among the ‘cluster’ groups is prioritized.

12 **Policy 2.2.4.3**

Ensure expansion of urban and rural residential areas occur in the most appropriate locations and only when required by:

- a. *(Same as 2GP Decision Version)*
- b. *(Same as 2GP Decision Version)*
- c. *(Same as 2GP Decision Version)*

13 d. Avoiding the creation of any new rural residential subdivisions. Rather enabling, over time, the use of existing undersized rural sites by rezoning as Rural Residential 1 sites or Rural Residential 2 sites consistent with the overall strategic planning objectives outlined in Objectives 2.2.4., 2.7.1, 2.7.2 and consistent with the recognition that rural residential zoning fails to materially provide for either maximum housing supply, or a level of rural productivity commensurate with maximizing future agriculture and food supply.

(Note that this policy is derived from and replaces Notified Plan Policy 2.2.4.3 (b), which was dropped by DCC in the Plan Appeals Version. However, the PCT position is in favour of retaining what DCC originally notified, indicating that *both* urban and rural residential zoning influence the ‘compact city’ goal as cited in Objective 2.2.4.)

14 **Policy 2.2.4.4 b**

A single addition which is a change to the DCC's policy version of 28.08.19 is shown below:

- 15 b. rules that prevent urban-scale residential living in a rural residential zone, and rules that discourage the sole house/garage urban-type residence which lacks 'rural' components in this zone.

16 **Subsequent change to the policy above:**

17.2.1.1 Require residential activity in the rural residential zones to be at a density that enables rural lifestyle blocks and hobby farms. Also, as part of the residence building consent, require construction of farm-related buildings to a total footprint equal in size to the residence/garage(s).

(Note this is not a "Strategic Direction" item. It is included here to propose a means, a single rule, that would address Objective 17.2.3 c, Policy 2.3.1.2 a., b., c., d. [Var. 1], Policy 2.4.1.7 a, and Objective 2.6.2 d. ii. 1. In addition, such a rule would serve to fulfil the rural residential intent expressed in Section 17.1 as the undertaking of ".....rural activities at a small scale".)

17 **Policy 2.3.1.2** (Note: Per DCC Variation 1)

A single addition is shown below:

- f. rules that restrict subdivision and rezoning of rural land that may lead to land fragmentation and create pressure for residential/oriented, sole house/garage development.

18 **Objective 2.6.1:** Housing choices

There is a range of housing choices that provide for the community's housing needs and supports social well-being, as well as rural lifestyle, hobby farming blocks that support social well-being.



Date: 20-01-2020

Craig Werner, Trustee & Treasurer

The Preservation Coalition Trust