

**BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH**

ENV 2018 CHC 285

**I MUA I TE KOOTI TAIAO O AOTEAROA
ŌTAUTAHU ROHE**

UNDER the Resource Management Act 1991 (RMA)

AND

IN THE MATTER of an appeal under clause 14 First Schedule RMA

BETWEEN THE PRESERVATION COALITION TRUST

Appellant

AND

DUNEDIN CITY COUNCIL

Respondent

SECOND AMENDED NOTICE OF APPEAL

18 May 2020

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To the Registrar
Environment Court
Christchurch

- 1 Trustees of The Preservation Coalition Trust (**PCT**) appeal a decision on the following:
 - (a) Decisions on the Second Generation Proposed District Plan for Dunedin City Council (**2GP**).
- 2 PCT is a charitable trust (#2672271) and successor entity to The Harboursides and Peninsula Preservation Coalition. PCT made a range of submissions on the 2GP including Landscape Overlays, Rural and Rural-Residential (**RR**) provisions. Relevant provisions are identified below.
- 3 PCT received notice of the decision on 7 November 2018.
- 4 The decision was made by Dunedin City Council.
- 5 PCT is not a trade competitor for the purposes of section 308D of the RMA.
- 6 The decision (or part of the decision) that I am appealing are by topic:
 - Landscape overlays
 - RR1 and RR2 zone boundaries
 - Rural residential strategic
 - Zone & overlay-specific
 - Vertical and horizontal integration
- 7 Specific provisions and reasons are identified by topic below.

8 Landscape overlays

8.1 Issue:

Whether to amend landscape overlays as recommended by the JWS Landscape.¹

8.2 2GP provisions appealed

All relevant 2GP provisions are identified by the JWS Landscape. These include:

- (a) Factors and criteria for assessment of ONLs;
- (b) Attributes, descriptions and values for ONL, ONF² and SNL in Schedule A3;
- (c) Mapping of ONLs, ONFs and SNLs in areas identified by the JWS Landscape:
 - Otago Peninsula ONL
 - Peninsula Harbourside SNL
 - Harbour Islands and Portobello Peninsula ONF (excluding Portobello Marine Science Mapped Area)
 - Heyward Coast ONL

¹ Joint Witness Statement on Landscape dated 31 March 2020 (**JWS Landscape**)

² JWS Landscape limits ONF recommendations to identified parts of Harbour Islands and Portobello Peninsula.

- Pūrākaunui SNL
- Mt Cargill ONL
- West Harbour SNL
- Flagstaff-Mt Cargill SNL

8.3 Reasons for Appeal

The 2GP provisions identified in [8.2] require amendment to align with the relevant statutory framework, Council's statutory functions, Part 2 RMA and the regional policy framework.

8.4 Relief

Amend the following as recommended by the JWS Landscape:

- Factors and criteria for assessment of ONLs;
- Attributes, descriptions and values for ONL, ONF³ and SNL in Schedule A3;
- Mapping of ONLs, ONFs and SNLs in areas identified by the JWS Landscape;
- Consequential relief including:
 - Amend Rural, RR1 and RR2 provisions to avoid adverse effects on values protected by ONL and ONF overlays; and to manage (including avoidance of) adverse effects on values protected by SNL overlays.

9 RR1 and RR2 zone boundaries

9.1 Issue:

Whether to revert to Rural zoning for the following areas presently zoned RR1 and RR2:

- Areas identified as ONL and SNL overlays on Map sheets 12 & 13 of the JWS Landscape;
- Areas identified in PCT maps, but outside the proposed ONL overlay.⁴

9.2 2GP provisions appealed

RR1 and RR2 zoning for:

- Areas identified as ONL and SNL overlays on Map sheets 12 & 13 of the JWS Landscape;
- Areas identified in PCT maps, but outside the proposed ONL overlay.⁵

9.3 Reasons for Appeal

The 2GP provisions identified in [9.2] require amendment to align with the relevant statutory framework, Council's statutory functions, Part 2 RMA and the regional policy framework.

9.4 Relief

Amend zoning to Rural for the following areas presently zoned RR1 and RR2:

- Areas identified as ONL and SNL overlays on Map sheets 12 & 13 of the JWS Landscape;

³ JWS Landscape limits ONF recommendations to Harbour Islands and Portobello Peninsula.

⁴ Refer PCT maps dated 26 August 2019 (prepared by Diane Lucas)

⁵ Ibid

- (b) Areas identified in PCT maps, but outside the proposed ONL overlay.⁶

10 Rural residential strategic

10.1 Issue:

Whether to amend strategic objectives and policies to minimise, stage and sequence future expansion of RR areas, protect rural and natural values, and respond effectively to existing zone capacity.

10.2 2GP provisions appealed

- (a) Objective 2.4.4; policies 2.4.4.3(c) and 2.4.5.3
- (b) Objective 2.6.1; policies 2.6.1.3, 2.6.1.4 and 2.6.1.5

10.3 Reasons for Appeal

The 2GP provisions identified in [10.2] require amendment to align with the relevant statutory framework, Council's statutory functions, Part 2 RMA and the regional policy framework.

10.4 Relief

(a) Policy 2.6.1.5

Whether "generally" should be deleted from:

- Policy 2.6.1.5(c)(iii)
- Policy 2.6.1.5(c)(iv)

"Achieving this includes ~~generally~~ avoiding the application of new rural residential zoning in ONF, ONL and SNL overlay zones."

"Achieving this includes ~~generally~~ avoiding the application of new rural residential zoning in ONCC, HNCC and NCC overlay zones."

(b) Wider changes to Objectives and Policies 2.6.1.3, 2.6.1.4, 2.6.1.5

PCT's current position on amendments is set out in **Appendix A**. Wording may evolve following expert caucusing and exchange of evidence.

11 Zone & overlay-specific

(a) Building and Structures

11.1.1 Issue

Whether to introduce additional controls to ensure that buildings and structures are reasonably difficult to see from off-site in the landscape overlays⁷ and Hill Slopes Rural zone.

11.1.2 2GP provisions appealed

Building and structure location and screening standard relevant to the landscape overlays and Hill Slopes Rural Zone.

⁶ Ibid

⁷ ONF, ONL, SNL, ONCC, HNCC, NCC landscape and natural character overlays (**landscape overlays**)

11.1.3 Reasons for Appeal

The 2GP provisions identified in [11.1.2] require amendment to align with the relevant statutory framework, Council's statutory functions, Part 2 RMA and the regional policy framework.

11.1.4 Relief

New policy and associated rule to introduce "reasonably difficult to see" test in the landscape overlays and Hill Slopes Rural zone for location, design, management of buildings and structures.

(b) Building and Structure Standards

11.2.1 Issue

Whether to add additional controls for buildings and structures in the landscape overlays,⁸ and the entire Hill Slopes Rural Zone, to protect relevant naturalness values.

11.2.2 2GP provisions appealed

Relevant building and structure controls for the landscape overlays and Hill Slopes Rural Zone.

11.2.3 Reasons for Appeal

The 2GP provisions identified in [11.2.2] require amendment to align with the relevant statutory framework, Council's statutory functions, Part 2 RMA and the regional policy framework.

11.2.4 Relief

Add additional controls for buildings and structures in the landscape overlays and the Hill Slopes Rural Zone:

1. The total area of all buildings and structures does not exceed the greater of 2% or 550 sq.m.
2. The residential building area shall not exceed 350 sq.m.

12 Vertical and horizontal integration

12.1 Issue

In light of relief sought by PCT, whether consequential amendments are required including:

- (a) Whether to amend relevant provisions in Chapter 17 (Rural Residential) to avoid adverse effects on values protected by ONL and ONF overlays; and to manage (including avoid) adverse effects on values protected by SNL overlays.
- (b) Whether to amend RD⁹ discretion for subdivision and buildings within RR zones outside landscape overlays to address effects on landscape values within the overlays.

⁸ ONF, ONL, SNL, ONCC, HNCC, NCC landscape and natural character overlays (**landscape overlays**)

⁹ Restricted discretionary (RD)

- (c) Whether other consequential amendments are required in relation to Issues [8.1], [9.1] and [10.1] above.

12.2 2GP provisions appealed

Identified at [8.1], [9.1] and [10.1] above.

12.3 Reasons for Appeal

Consequential amendments to achieve vertical and horizontal integration; align with the relevant statutory framework, Council's statutory functions, Part 2 RMA and the regional policy framework.

12.4 Relief

Amend 2GP provisions in response to the issues identified at [12.1] above.

I attach the following documents* to this notice:

- (a) cover email to this Appeal identifies the names and addresses of persons served with a copy of this notice;
- (b) As this is an amended Appeal, all parties already have the relevant background documents including Council decisions.

Dated this 18th day of May 2020



Craig Werner

Trustee and authorised signatory for The Preservation Coalition Trust

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Advice to recipients of copy of notice of appeal

How to become a party to proceedings

If you wish to become a party to the appeal, you must,—

- (a) within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the

- Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38). Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.