

**BEFORE THE ENVIRONMENT COURT
AT CHRISTCHURCH**

ENV 2018 CHC 285

**I MUA I TE KOOTI TAIAO O AOTEAROA
ŌTAUTAHU 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

**MEMORANDUM BY COUNSEL FOR PRESERVATION COALITION TRUST (PCT) TO
IDENTIFY RELIEF SOUGHT FOR TOPIC C (CHAPTER 2 STRATEGIC)**

03 FEBRUARY 2020

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May it please the Court

- 1 Counsel refers to:
 - (a) Joint application for directions following ADR dated 20 December 2019, including directions for Topic C as follows:

Topic C: other policy challenges relating to rural residential zoning

8 The parties requests [sic] a direction that the Appellant is to identify by 20 January 2020 what changes are sought to specific strategic direction polices relating to the rural residential zoning in the 2GP (in addition to those changes to policy 2.6.1.5(c)(iii) and (iv) which is already resolved).

- (b) Subsequent minutes by the Court directing that PCT confirm its position on relief for Topic C.

- 2 PCT's position on relief sought for Topic C is as follows:

(a) Marked-up changes to agreed relief on Wyber appeal

- 3 PCT does not agree with proposed agreed relief for the Wyber appeal. PCT proposes changes to:
 - Policy 2.6.1.3(a) by substituting the words "the proposed zoning meets the criteria outlined in Policy 2.6.1.4";
 - Policy 2.6.1.3(b) delete "...based on the predicated market availability of rural residential zoned land for the next 5 years.."
 - PCT queries whether definitions of "lifestyle block", "hobby farm" and "cluster" may be required. These terms are relativistic or potentially uncertain;
 - To assist, PCT will confer with Council and then file a marked-up version of the Wyber relief, indicating the above changes.

(b) Objective 2.4.4, Policy 2.4.4.3(c), Policy 2.4.5.3

- 4 Issue 5 of PCT's List of Issues¹ identifies amendments as follows:

"ISSUE ONE: STRATEGIC DIRECTIONS (CHAPTER 2, 2GP)

5 Objective 2.4.4 Natural landscapes and natural features

Whether to amend "restrict" to more appropriate wording² and insert "location"; or substitute alternative wording that gives effect to the NZCPS and imports an avoidance threshold for activities that result in more than minor or transitory adverse effects for:

- Policy 2.4.4.3(c)
- Policy 2.4.5.3

"**..restrict** the scale of development in ONFs, ONLs and SNLs and ensure the location and design of development is appropriate.."

"**..restrict** the scale of development in ONCC, HNCC and NCCs and ensure the location and design of development is appropriate.."

¹ Dated 16 April 2019 (**PCT's List of Issues**)

² Such as: "avoid inappropriate development in ONFs, ONLs".

- 5 It is unclear whether the above relief is part of Topic C, so it has been identified on a precautionary basis.

(c) Policy 2.6.1.4 and/or Policy 2.2.4.3(b)

- 6 Issue 12 of PCT's List of Issues proposed amendments to Policy 2.6.1.4 and/or Policy 2.2.4.3(b) to minimise Rural Residential zone expansion, with any expansion to be staged and sequenced.
- 7 PCT wishes to pursue this relief, which reflects RPS directives to "minimise" subdivision of rural land. Structurally, Policy 2.6.1.4 may be the better location, but PCT reserves its position on Policy 2.2.4.3(b):

12 The following relief is sought:

- RR zone expansion must be minimised (per RPS 4.3.1.d)³, and properly staged and sequenced. Zone capacity must address Council reports indicating the approximate 50% available capacity in the operational Plan and capacity calculation errors in the s42A report.

Scope:

- Refer Submission and Notice of Appeal
- Appeal pg 6, 2.6.1.4.a the creation of new RR zones if there is a shortage of sites.
- Appeal pg 8, Relief point #1.
- Submission pg 4, 2.2.4.3.b linked to Addendum #4.

(d) PCT reserves its position on zone-specific changes

- 8 Counsel is instructed that the above are the only changes sought by PCT under Topic C. PCT reserves its position on the most appropriate provisions for zone-specific chapters of the 2GP relevant to Rural Residential subdivision.
- 9 These will be identified as part of the Topic 2 process.

Dated this 3rd day of February 2020



Rob Enright
Counsel for the Appellant

³ This appears to be a typo, and should refer to the partially operative RPS at 5.3.1(d):

Policy 5.3.1⁵⁷ Rural activities

Manage activities in rural areas, to support the region's economy and communities, by:
.. ed) Minimising the subdivision of productive rural land into smaller lots that may result in rural residential activities a loss of its productive capacity or productive efficiency;..