

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

Before: Environment Judge J E Borthwick

Held: in Christchurch on 5 December 2019 at 9.00am

In Attendance: R Enright and C Werner for The Preservation Coalition Trust
M Garbett for the Dunedin City Council
(Council planners were also in attendance)
J St John for Oceana Gold NZ Ltd
S Anderson for Otago Regional Council
D Sycamore for Federated Farmers of NZ
D McLachlan for the University of Otago

RECORD OF TELEPHONE CONFERENCE

Introduction

[1] A telephone conference was convened to clarify jurisdictional and scope issues arising in relation to an outstanding natural landscape and overlay for the coastal environment.

[2] Counsel for the Preservation Coalition Trust ("PCT") advised that taking a strict view of its notice of appeal, the scope of the appeal is limited in spatial extent. This is also the view of the City Council who would confine scope to Portobello and the township and settlement zones from the Harrington Point Rd and Tidewater Drive. Alternatively, PCT says that a wider view of the notice of appeal would encompass the entire Otago



Peninsula and Harbour Basin. Land within the outstanding natural landscape and coastal environment overlay is subject to different/additional methods of regulation under the proposed District Plan. Relief based on the entire Otago Peninsula and Harbour Basin has the potential to affect the property interests of many people (people who may or may not be parties to the appeal).

[3] Relying on the higher order planning instruments and Part 2 of the Act, PCT submits that even if there is no scope under the notice of appeal to pursue this relief, it could seek relief under s 293 of the Act.

[4] By consent, the direction on the conferencing of expert witnesses is cancelled. As clarity is urgently required about the scope of the appeal and secondly, whether the proposed District Plan has given effect to the higher order planning instruments, the parties are referred to a meeting facilitated by retired Environment Commissioner Mr R Dunlop. The court has appointed Mr Dunlop under s 268 of the Act.

[5] Finally, I note, the Dunedin City Council, in principle, has no difficulty with the inclusion of a non-statutory plan of the coastal waters as this will have no regulatory effect.

Directions

[6] I direct:

- (a) PCT is to file a memorandum by **5pm Friday 6 December 2019** clarifying whether it is seeking the extension of an ONCC overlay across land in respect of which the University of Otago has an interest;
- (b) this proceeding will be set down for an ADR meeting facilitated by Mr Ross Dunlop on **Thursday 12 December 2019**. A notice confirming the venue and start time will issue shortly;
- (c) as this is a facilitated meeting, counsel are directed to attend and are strongly encouraged to bring not only their client representative but planning and landscape experts. For the Dunedin City Council we understand this will be Messrs Garbett, Bathgate and Moore and for PCT, Messrs Enright, Werner and Ms Lucas. All other parties intending to call landscape evidence at the hearing are also to attend.



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



J E Borthwick

Environment Judge

Issued: 6 December 2019

