

In the Environment Court of New Zealand
Christchurch Registry

I Mua I Te Kōti Taiao o Aotearoa
Ōtautahi Rohe

Under	the Resource Management Act 1991 (RMA)
In the matter of	an appeal under clause 14(1) of the First Schedule of the RMA in relation to the proposed Second Generation Dunedin City District Plan (2GP)
Between	Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou ENV-2018-CHC-240 Appellants

And	Dunedin City Council Respondent
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Consent memorandum – Manawhenua

27 August 2020

Respondent's solicitors:

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**anderson
lloyd.**

May it please the Court

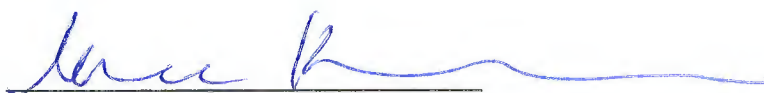
- 1 This consent memorandum relates to an appeal from Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou regarding the Manawhenua provisions in the proposed Dunedin City Second Generation District Plan (**2GP** or **Plan**).
- 2 The appeal by Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou sought that (DCC Reference number 54):
 - (a) For any RD, D and NC activities within a wāhi tūpuna mapped area, where that activity has been identified as a threat in Appendix A4, and for all D or NC activities, the necessary linkages, additional rules and other clauses be added to the 2GP to provide for the proper consideration and assessment of Manawhenua values; and
 - (b) Wherever written approval from Manawhenua has not been obtained for the above activities, provision is made for the application for resource consent to be notified to Manawhenua.
- 3 Oceana Gold New Zealand Limited, Federated Farmers of New Zealand and Blackhead Quarries Limited are section 274 parties to this appeal.
- 4 The parties have agreed the following changes to the Plan that are shown in **Appendix A**.
- 5 The rationale for the changes, and the assessment of the changes in terms of section 32 of the RMA, is explained in an affidavit of Emma Christmas, a policy planner at Dunedin City Council.
- 6 This is a partial settlement of the appeal (DCC Reference number 54). The appeal reference points, topics and status of proceedings for the unresolved appeal points are as follows:
 - (a) Amend Policy 16.2.3.4 and Rule 16.11.2.4 to require that all mines and landfill sites be restored to a high standard (DCC Reference number 55, which is currently being mediated); and
 - (b) Ensure that important ridgelines are correctly mapped and/or identified in the 2GP (DCC Reference number 55, not yet scheduled for mediation).
- 7 The agreed changes shown in **Appendix A**:
 - (a) Amend assessment rules to ensure effects on cultural values of Manawhenua are appropriately included.

- 8 There is also a supporting affidavit of Dr Anna Louise Johnson, the City Development Manager at Dunedin City Council, that considers alignment with, and impact of, any changes on the objectives and policies and the drafting of the proposed amendments to ensure alignment with the 2GP Style Guide. Dr Johnson considers that the amendments have been drafted to be in keeping with the 2GP Style Guide.

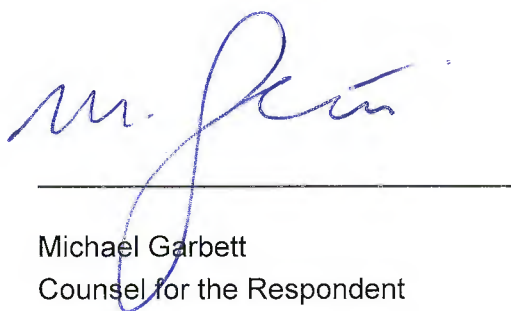
Orders sought

- 9 The parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the RMA, including Part 2 and request:
- (a) That the amendments shown in strikethrough and underline in **Appendix A** are made; and
 - (b) That the remaining parts of these appeals remain to be dealt with at a later date.
- 10 The parties agree that costs should lie where they fall and accordingly no order of costs is sought.

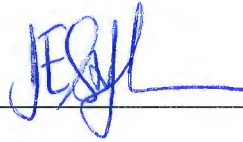
Dated this 27th day of August 2020



Maree Kleinlangevelsloo
Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou
For the Appellant



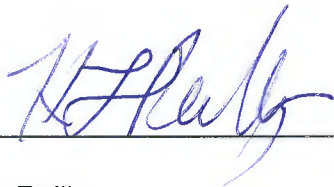
Michael Garbett
Counsel for the Respondent



Jackie St John
Oceana Gold New Zealand Limited
Section 274 Party



Derek McLachlan
Blackhead Quarries Limited
Section 274 Party



Kim Reilly
Federated Farmers of New Zealand
Section 274 Party

Appendix 1

Amend Rule 3.7.3.4:

4.	In a wāhi tūpuna mapped area where the activity is <u>identified as a threat</u>: • Public artworks - large scale • Public display boards • Public toilets	a. Effects on cultural values of Manawhenua	See Rule 14.4
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Amend Rule 5.7.5:

5.7.5 Assessment of restricted discretionary performance standard contraventions located in an overlay zone or mapped area, or affecting a scheduled item			
Activity		Matters of discretion	Guidance on the assessment of resource consents
X	In a wāhi tūpuna mapped area: • <u>Setback from coast and water bodies</u>	a. Effects on cultural values of <u>Manawhenua</u>	<u>See Rule 14.3</u>

Amend **Rule 5.8.3:**

5.8.3 Assessment of restricted discretionary network utility activities in an overlay zone, mapped area, heritage precinct, or scheduled item			
Activity		Matters of discretion	Guidance on the assessment of resource consents
4.	In a wāhi tūpuna mapped area where network utility activities are identified as a threat in Appendix A4: • <u>Network utility structures – large scale (amateur radio configurations only)</u> • <u>Network utility poles and masts – small scale</u> • <u>Wind generators – small scale</u> • <u>Hydro generators - small scale</u> • <u>Solar panels – small scale</u>	a. Effects on cultural values of Manawhenua	See Rule 14.4

Amend **Rule 14.4.2.4:**

4	All <u>General subdivision activities where effects on cultural values of Manawhenua is a matter of discretion</u>	a. Where in a wāhi tūpuna mapped area, effects on cultural values of Manawhenua	<i>Relevant objectives and policies:</i> i. Objective 14.2.1 ii. In a wāhi tūpuna mapped area where subdivision is identified as a threat in Appendix A4 (Policy 14.2.1.4). iii. In a wāhi tūpuna mapped area identified as having mahika kai values (Policy 14.2.1.3). <i>Potential circumstances that may support a consent application include:</i> ...
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Amend **14.6** to add new section **14.6.X**:

14.6.X Assessment of non-complying performance standard contraventions		
<u>Activity</u>		<u>Guidance on the assessment of resource consents</u>
1.	All non-complying performance standard contraventions that are linked to section 14.6	<u>Relevant objectives and policies (priority considerations):</u> a. <u>Objective 14.2.1</u> b. <u>In a wāhi tūpuna mapped area where the activity is identified as a threat in Appendix A4, adverse effects on the relationship between Manawhenua and wāhi tūpuna are avoided or, if avoidance is not practicable, are no more than minor (Policy 14.2.1.4).</u> <u>Related strategic directions</u> a. <u>Objectives 2.5.1, 2.5.3, 2.5.4, policies 2.5.1.2, 2.5.3.1 and 2.5.4.1.</u> <u>General assessment guidance:</u> b. <u>Council will consider the findings of a cultural impact assessment provided with the application for resource consent, where required (see Special Information Requirements - Rule 14.7.1).</u>

Amend **Rule 15.11.5.7**:

7.	In a wāhi tūpuna mapped area where the activity is identified as a threat: All subdivision activities <u>General subdivision</u>	a. Effects on cultural values of Manawhenua	See Rule 14.4
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Amend **16.12.5**:

16.12.5 Assessment of non-complying performance standard contravention

Performance standard		Guidance on the assessment of resource consents
<u>X</u>	<u>In a wāhi tūpuna mapped area:</u> • <u>Density</u> • <u>Minimum site size</u> • <u>Tree species</u>	<i><u>Relevant guidance from other sections (priority considerations):</u></i> <u>See Section 14.6 for guidance on the assessment of resource consents in relation to Objective 14.2.1 and effects on the cultural values of Manawhenua</u>

Amend **17.12.6:**

17.12.6 Assessment of non-complying performance standard contraventions		
Performance standard		Guidance on the assessment of resource consents
X.	<u>In a wāhi tūpuna mapped area:</u> • <u>Density</u> • <u>Minimum site size</u> • <u>Tree species</u>	<i><u>Relevant guidance from other sections (priority considerations):</u></i> <u>See Section 14.6 for guidance on the assessment of resource consents in relation to Objective 14.2.1 and effects on the cultural values of Manawhenua</u>