

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

Under	the Resource Management Act 1991 (RMA)
In the matter of	appeals under clause 14(1) of the First Schedule of the RMA in relation to the proposed Second Generation Dunedin City District Plan (2GP)
Between	Anthony Parata ENV-2018-CHC-214 Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou ENV-2018-CHC-240 Appellants
And	Dunedin City Council Respondent

Memorandum of Counsel regarding Manawhenua Consent Memoranda Bundle

25 November 2020

Respondent's solicitor:

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lloyd.**

May it please the Court

- 1 This memorandum is filed on behalf of Dunedin City Council (**Council**) to explain the first "batch" of consent memoranda that are filed following Court-assisted mediation for Group 2 appeals. Relevant Minutes from the Environment Court that have guided the Council are:
 - (a) 29 May 2020 – Mediation and filing of applications for consent orders; and
 - (b) 9 June 2020 – Case management expectations.
- 2 In this instance Council submits two consent memoranda to the Court for consideration to resolve the Manawhenua Topic.
- 3 Council requests that the Court consider and make determinations on the following attached two consent memoranda:
 - (a) A H Parata (ENV-2018-CHC-214) dated 11 November 2020; and
 - (b) Kāti Huirapa Rūnaka Ki Puketeraki and Te Rūnanga o Ōtākou (ENV-20187-CHC-240) dated 27 August 2020.
- 4 There are four affidavits from the Council Planning staff filed with these consent memoranda, addressing the content of the proposed changes, the planning framework, section 32AA RMA, and the 2GP style guide.
- 5 Also filed is a single draft order dealing with both appeals together. This attaches a single Annexure A that contains the relief sought in both memoranda in one place, in Plan order. This should assist the Court to view these proposed changes in order.
- 6 It is also pointed out that there is a track change version of the 2GP in PDF showing those changes in context available for the Court on the DCC's 2GP Appeals Information webpage¹ at this link https://www.dunedin.govt.nz/data/assets/pdf_file/0009/773469/Full-Plan.pdf.

Other issues

- 7 Dr Katie James has, in her affidavit filed with the Parata consent memorandum, addressed the issue of potential interrelationships between

¹ <https://www.dunedin.govt.nz/council/district-plan/2nd-generation-district-plan/appeals-information>

the Parata consent memorandum and other appeals (paragraphs 10-14 of Dr James's affidavit).

- 8 There is one issue with Rule 16.5.2.1 to draw to the Court's attention.

Rule 16.5.2.1

- 9 The resolution of the Parata appeal has resulted in an agreed change proposed to one part of Rule 16.5.2.1. This rule is the main rule that sets out the residential density standards in the rural zone. It has a number of subparts that address the standards in the different sub zones.
- 10 Resolution of the Parata appeal has involved an agreed change to Rule 16.5.2.1.h that proposes to amend the density of papakāika housing only.
- 11 There are two separate appeals on other sub parts of Rule 16.5.2.1 by Blueskin Projects Limited and others (ENV-2018-CHC-276, DCC Reference number 168), and BW Taylor and the Estate of Lawrence Taylor (ENV-2018-CHC-244, DCC Reference number 10). These appeals have been resolved as part of the Rural Strategic topic. A consent memorandum has been signed resolving these appeals, and filed, but presently lies in Court. The resolution of the Blueskin Projects Limited and Taylor appeals, has agreed to changes to add to Rule 16.5.2.1(iii), and (3)(a) addressing the topic of the density rule for the Middlemarch Basin, Hill Country and rural zones, and for the Peninsula Coast Rural Zone. There is also an agreed change to Rules 16.5.2.2 and 16.5.2.3 addressing family flats. It is considered these topics are unrelated to the topic of papakāika housing density.
- 12 It is therefore proposed that the Court consider the Parata consent memorandum, and the Court is respectfully asked to consider approving the change to Rule 16.5.2.1.h to resolve the papakāika rule. This would be on the basis that the remaining parts of Rule 16.5.2.1 can be considered by the Court when it considers the Blueskin Projects Limited and Taylor consent memoranda.

Higher order Objective and Policy

- 13 There are also two appeals on a higher order objective and policy that relate to the Manawhenua Section.
- 14 Objective 2.5.3 and Policy 14.2.1.4 have been appealed by Tussock Top Farms Ltd (ENV-2018-CHC-282) and Saddle View Estates Ltd (ENV-2018-CHC-283). A consent memorandum has been signed by the parties to

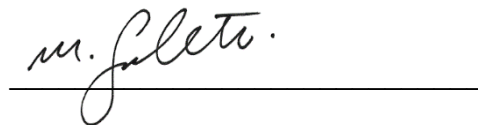
these appeals (dated 30 September 2020) that agrees to no changes being made to this Objective and Policy.

- 15 For clarity, Council is not requesting approval of the additional consent memorandum referred to in the above paragraph at this point of time. The agreement reached is referred to in order to explain the position reached with these higher order appeals. This consent memorandum has not yet been filed, but can be made available if that assists the Court.

Future consent memoranda bundles

- 16 For the Court's information, Council is working to group related consent memoranda into relevant bundles, and planning staff are working on affidavits. It is planned to lodge for the Court's consideration the Residential Strategic topic bundle next, followed by the Commercial/Campus topic bundle. This should occur over the coming weeks.

Dated this 25th of November 2020

A handwritten signature in black ink, appearing to read "Mr. Garbett", is written over a horizontal line.

Michael Garbett
Counsel for the Respondent