

In the Environment Court of New Zealand  
Christchurch Registry

I Te Koti Taiao o Aotearoa  
Ōtautahi Rohe

**ENV-2018-CHC-254**

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 **Federated Farmers of New Zealand Incorporated**

Appellant

And **Dunedin City Council**

Respondent

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### **Memorandum of Counsel**

30 June 2022

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Topic: Rural Provisions     DCC Reference number 165

#### **Respondent's solicitors:**

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**anderson  
lloyd.**

## **May it please the Court**

- 1 This memorandum of counsel is filed on behalf of Dunedin City Council (**Council**) in relation to the consent memorandum for the Federated Farmers of New Zealand Incorporated (**Federated Farmers**) appeal on the definition of 'farming' under the proposed Second Generation Dunedin City District Plan (**2GP** or **Plan**) (DCC Reference number 165). This memorandum of counsel addresses the following two matters:
  - (a) Amendment to the draft consent order to record that the remaining parts of the appeal are to be dealt with at a later date; and
  - (b) Withdrawal of Horticulture New Zealand as a section 274 party.

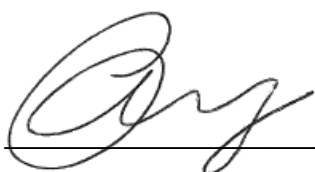
## **Amendment to draft consent order**

- 2 Council has now filed the consent memorandum and supporting documents that have been agreed to resolve this appeal. This agrees to:
  - (a) Amend Rule 4.5.3.3 (helicopter movements rule) to clarify that helicopter movements supporting farming are exempt from the temporary activities performance standard; and
  - (b) Amend Rule 9.3.6 (through clause 16 of the Schedule 1 to the RMA) to clarify helicopter movements are not subject to Rule 9.3.6 (general noise performance standard), as they are subject to Rule 4.5.4.5 (temporary activities noise performance standard).
- 3 Para 5 to the consent memorandum states that this is a full settlement of the appeal and the directions sought at para 8 respectfully request that the amendments shown in Appendix A to the consent memorandum are made and that the appeal is otherwise dismissed.
- 4 It is noted that Federated Farmers has two appeal points (DCC Reference numbers 175 and 184) filed with the Court as part of the Biodiversity and Rail Bundle that is awaiting the resolution of the appeal by Royal and Forest and Bird Protection Society of New Zealand Incorporated in regards to the definition of "vegetation clearance" (DCC Reference number 264), currently set down for further mediation. On this basis, the consent order (draft) filed with the consent memorandum for the Federated Farmers appeal (DCC Reference number 165) has been amended to record that DCC Reference number 165 is resolved and the remaining parts of the appeal are dealt with at a later date.

### **Withdrawal of Horticulture New Zealand as section 274 party**

- 5 On 2 March 2022 counsel for Horticulture New Zealand advised Council that it formally withdraws as a section 274 party to the Federated Farmers appeal on helicopter movements and farming (DCC Reference number 165). Attached at **Annexure 1** is the email correspondence from counsel for Horticulture New Zealand for the Court's records. We can confirm that Council has no issues as to costs with this withdrawal.
- 6 For completeness, we note that Otago Regional Council filed a notice of withdrawal as a section 274 party to this appeal point on 16 March 2022 which has been formally recorded by the Court.

Dated this 30<sup>th</sup> day of June 2022

A handwritten signature in black ink, appearing to be 'Gy', is written over a horizontal line.

Michael Garbett / Georgia Cassidy  
Counsel for the Respondent

## Annexure 1

**From:** [Rachel McClung](#)  
**Sent:** Wednesday, 2 March 2022 9:50 AM  
**To:** [Georgia Cassidy](#)  
**Cc:** [2GP Correspondence](#)  
**Subject:** RE: 2GP - Biodiversity and Rail Bundle and Network and Utilities Bundle (Matter: 1904165)

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Thank you Georgia. I appreciate your help on the matter. I'll advise Federated Farmers that we have withdrawn from that appeal.

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**From:** Georgia Cassidy <[georgia.cassidy@al.nz](mailto:georgia.cassidy@al.nz)>  
**Sent:** Wednesday, 2 March 2022 9:48 am  
**To:** Rachel McClung <[Rachel.McClung@hortnz.co.nz](mailto:Rachel.McClung@hortnz.co.nz)>  
**Cc:** 2GP Correspondence <[2GPCorrespondence@dcc.govt.nz](mailto:2GPCorrespondence@dcc.govt.nz)>  
**Subject:** RE: 2GP - Biodiversity and Rail Bundle and Network and Utilities Bundle (Matter: 1904165)

Good morning Rachel,

Thank you for getting back to us on this. We will remove HortNZ as a section 274 party to the Federated Farmers of New Zealand's appeal on helicopter movements and farming (DCC Reference number 165) and will advise the Court of this withdrawal when we come to filing the consenting documents for this appeal.

Kind regards,  
Georgia

**Georgia Cassidy** (she/her) | Associate | [Anderson Lloyd](#) | d [+64 3 467 7162](#) | m [+64 27 721 7079](#)

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**From:** Rachel McClung <[Rachel.McClung@hortnz.co.nz](mailto:Rachel.McClung@hortnz.co.nz)>  
**Sent:** Wednesday, 2 March 2022 9:24 AM  
**To:** Georgia Cassidy <[georgia.cassidy@al.nz](mailto:georgia.cassidy@al.nz)>  
**Cc:** 2GP Correspondence <[2GPCorrespondence@dcc.govt.nz](mailto:2GPCorrespondence@dcc.govt.nz)>  
**Subject:** RE: 2GP - Biodiversity and Rail Bundle and Network and Utilities Bundle (Matter: 1904165)

Good morning Georgia,

Apologies, I wasn't over that remaining appeal. You are correct, we haven't formally withdraw as a s274 party from that appeal. Can you please take this email as our formal withdrawal from the Federated Farmers of New Zealand's appeal on helicopter movements and farming (DCC Reference number 165) ?

Kind regards,

Rachel

**Rachel McClung**

**Environmental Policy Advisor – South Island** | [Horticulture New Zealand](#)

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