Late action catches council by surprise

A PANILY APPAIR

## Injunction threat hits stadium

and ELSPETH MCLEAN

IN an 11th-hour bid to derail stadium construction plans, the Stop the Stadium group late yesterday sought a High Court injunction barring the Dunedin City Council from next week signing a construction contract.

The council was expected to sign the contract at an extraordinary meeting on Monday morning, but the group says the financial parameters of the project have changed so much the council should be restrained from signing until it has consulted afresh with rate-

payers.
The court action has thrown plans for Monday's meeting into disarray. Council chief executive Jim Harland last night said the city solicitors, Anderson Lloyd Lawyers, would examine the papers in detail at the ekend and would brief coun-

...lors about options at the start of the meeting. The briefing would be confidential.

Asked how long the briefing might take, Mr Harland said he did not know. Nor did he know whether the council would be able to debate signing the stadium construction contract. The court action had come as a surprise, Mr Harland said. He

said he rang the city solicitor at 5.03pm and was told no papers had been filed with the court. Not long afterwards, he was told that had changed.

"I'm disappointed . . . it has come so late. I understand people have concerns [about the stadium] and have the right to exercise their legal rights. But happening at the end of the business day before the meeting

makes it awkward for everyone.

#### The STS injunction notice

Wants the High Court to declare it would be unlawful for the DCC to resolve to proceed with the stadium before its 2009-18 longterm council community plan (LTCCP) is adopted.

Wants a High Court injunction restraining the DCC from signing a construction contract until after the LTCCP is adopted. Wants a High Court order made

quashing any DCC decision to proceed with the stadium before the LTCCP is adopted.

Says the cost of the stadium to ratepayers has altered so significantly the DCC should complete a special consultative process as part of the LTCCP before deciding whether to proceed.

DCC has 25 days to file a statement of deferice.

It is not known when the application will be heard by the

Some councillors might read about the pending legal action in the Otago Daily Times, Mr Harland said.

"I'm emailing them all tonight, but I con't guerantee they will

but I can't guarantee they will read it before the morning," he

Stop the Stadium president Bev Butler said last night the paperwork was filed with the court about 4.30pm.

As well as the main document, there were supporting affidavits from herself and accountant and university lecturer Nicola Hol-

Ms Butler said the documents were filed upon their com-

The group was waiting to hear what the response would be from the council.

If the matter proceeded to a hearing, Ms Butler expected it might be a week before it would be heard in the High Court at Dunedin.

The council has up to 25 days (from yesterday) to file its statement of defence.
In her affidavit supporting the

review application and interim injunction, Ms Butler gave the background of Stop the Stop ion to Stadium's opposition to the Stadium and outlined her concerns about lack of consultation.

Ms Holman's affidavit concentrated on the financial

aspects of the stadium proposal.

She considered changes made to the long-term council community plan to be both material and significant in terms of generally accepted accounting practices and that the stadium represented in the long-term plan draft was not substantially the same as that in the current annual plan.

The application document listed the differences as the \$10 million increase in the cost of the project, the \$3 million reduction in the contribution from the Community Trust of Otago, the "external contribution" of \$15 million being recorded without explanation of its source, the \$22.8 million increase in the bridging loan requirement, a budget based on \$165.4 million in construction costs not previously specified and private funding of \$45.5 million, which had changed significantly.

> Continued Page 3

THE CONTRACT \* Page 3 EDITORIAL Page 30 SIR CLIFFORD'S VIEW • Page 31



Hell's teeth . . . A white pointer shark approaches the shark cruises past (top right of photo).

### Jaws playin

By STEPHEN JAQUIERY

YOU can dive into shark-infested waters and retain all your arms and legs, but for insurance you should be enclosed in a cage and

should be enclosed in a cage and have a strong heart.

Dunedin fisherman Peter Scott, who last year built a 2m-high, 100kg aluminium cage which he suspends off the back of his Bluff-based fishing boat, has been attracting great white sharks to the Lady Anna, in Foveaux Strait. While cage diving with sharks is a popular tourist Foveaux Strait. While cage diving with sharks is a popular tourist attraction in other parts of the world, Mr Scott's operation is available only for researchers and documentary-makers.

Department of Conservation marine ecologists first used the cage in April last year to tag great whites, not far from where Bluff oysters are dredged. A succession of documentary film-makers have followed, capturing on film this



impressive natural enviro An invitatio Island under off Stewart Isl

quickly accep haunting then Jaws rang in headed from inflatable boat

Its crew had way by tipping oil into the white pointers boat as we ay

### ownturn minor at Mt Pisa vehice

SOUTHERN Hemisphere Proving Grounds' international vehicle and tyre testing facility, on the Pisa Range, has auto-motive clients booked throughout the winter season and remains fully staffed, despite the woes of the global car industry and New Zealand's Otago's rural areas are being hit by the recession, but it is not all gloom. As Simon Hartley discovered, the automotive testing facility on top of Mt Pisa has many international clients booked. His article is part of a detailed look at how Central Otago and the Lakes district is coping. Other reports: Pages 15 and 16.

making cars. We are at full strength, compared to last year, but there have been a couple of

cancellations and some scaling back." Mr Elworthy said.
The highly secretive proving ground caters for the world's premier vehicle and tyre manufacturers.

Most of the 1 this year spen and three we facility, attended staff, including employees.

The debt-ride

motor industry



body rates rose 5.7%, inflation. almost twice the rate of

food price index showed news elsewhere in the igures, however There was some good

monthly food price rises had slowed from 10.3% in November to 8.6% last month he year to March Petrol fell in price by 9.3% in

was from the grocery group (which includes bread and dairy the food component of the CPI But all five major food groups measured by Statistics New Zealand went up in price. The biggest contribution to

ine year. Fruit and vegetables fell 0.4%

products), which rose 8.9% over

in the March quarter but rose 2% over the year.

if fuel had stayed the same price. — The New Zealand 3.4% overall in the year to March the CPI would have increased by Statistics New Zealand said

# **Bev Butler**

Clinton in Washington,

Tuheitia wants him to Te Atairangikaahu on Zealand, and in particupass on an invitation for Mr Obama to visit New his visit to New Zealand Mr Clinton met Dame King

the King's base. Turangawaewae

Maori Whakaruru, Tukoroirangi Maori King, his wife, Te Atawhai, Tainui iwi chairman King's new chief of staff, Rang The travelling Tainui delegahis Lady Raiha V*ew Zealand* 

From Page 1

group up to \$20,000. proceeded it Ms Butler said if the review could cost the

money and would seek support It did not have that amount of cover these costs.

cation latest review judicial applithe Ö

opponents halt the p attempts stadium series

ject, including complaints to the Auditor-

dropped because of the cost trict plan changes to allow for ment Court appeal against disombudsmen, and an Environhe development — which was genera. and

connection with its stadium whether the Otago Regional Council was acting legally in firm Chen Palmer to look into instructed specialist public law the Stadium also

decision-making.
Last night, Ms Butler was not status of that action.

expected to represent the group The instructing solicitor for the group's High Court action is Hilary Calvert. Len Andersen is in court.

could not be reached Dunedin Mayor Peter Chin

> of the contract provisions responsible to the trust,

Project Manager

leremia, working with protect delivery Arrow International projects director Lale

Hawkins Construction representative Contractor's representative:

and Jasmax Ltd. HOK, Sport and Event and Venue Pty Ltd

Project control group: Representatives from Hawkins Construction, the Carisbrook Stadium Trust, mantity surveyor:

Mr leramia, HUK and Jasmax, Kawlinsons

manager. amendments directed by the project completion date: e.g. any scope provides for permitted adjustments to the more than the guaranteed maximum price complete the new Otago stadium for no (GMP) by August 1, 2009. The contract The contractor is required to construct and NATURE OF CUSTRACT

Key concepts

 The GMP is the guaranteed final maximum price for the construction

 The amount the council has to pay car not be higher than the GMP. The GMP can change upwards or

downwards if the scope of the project

 d. Hawkins bears the risk of its construction costs being higher than

e. If the cost is lower than the GMF, savings are shared between the council

OR MON RISK COOPE AND MONEY TO

A WILLIAM

Detailed design due by June 30. The designers are, in turn Carisbrook Stadium Trust engaged designers, so if there are errors of design or that is borne by trust material changes to design

scope: material errors or omissions in the for the following are outside the agreed of dispute about scope amendments by legislative change. working practices; design changes due to extraordinary techniques; materials or intent or scope; addition of detail requiring original design; changes to the original agreeing that changes in detailed design The parties have sought to lessen the rist

scope amendments. The contractor is entitled to payment for

breach of contract by the trust, or events any part of the work by the trust, delay or CONTractor'S ITSK. beyond its control not agreed to be the time and delay costs for suspension of The contractor is entitled to extension

value for each day overdue. are to be paid to the council; an agreed construction by the due date, damages If the contractor fails to complete

agreed amount of days is a risk to the The risk of bad weather days beyond

PEL ALCOHOL PINE

subcontractors' tenders. The contractor has responsibility for

of dealing with unforeseen site conditions and hazardous substances – lies with the Site risk - including the operational risk

OWN COST. resource and building consents at its The trust is responsible for obtaining

is required to rectify any during valuels the confractor There is a 12-month period

✓ ODT graphic: HAYDEN SMITH

By DAVID LOUGHRE

could still yet be the final play of THE scheduled meeting of the Dunedin City Council on Monday or a High Court injunction by Stop the Stadium's application ion, claim and counter-claim ive years of angry debate, allegathrown into disarray last night

over the city's proposed stadium. sentatives to vote on whether to for the city's 15 elected repreagree to a construction contract The plan for the meeting was

\$655,000 increase in the cost to \$130,414, 595, but a transfer of some of the risk from the city to Hawkins. struction has been tabled, with a main contractor Hawkins Conthat would see building begin.

The contract negotiated with

Peter Chin

made it clear yesterday — before news broke of the injunction notice — there was no going back the decision was in favour of executive Jim Harland Dunedin City Council

decision to sign the contract Mayor Peter Chin signs and "If the council makes a formal journey. That's where Hawkins sign, we're on we re

against the project because of wider issues, but admitted the Carisbrook Stadium Trust the risk of a price blow-out was limited by the contract it could Cull said he would be voting "haven't done a bad job", and if Stadium opponent Cr Dave

only be a good thing.
"I think they've worked pretty hard to reduce the risks that were there."
The agenda for an extra-

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Professional costs: \$25,603,540 Adjusted sums: \$7,994,000 contract: \$130,414,595 Guaranteed maximum price Contingency funding: \$1,387,865 Sub total: \$164,012,045 Fotal: \$165,400,000



The vate at 9am and move into pubto start in priordinary meet Barr Stadium posed Forsyth lic after ing of the counnas one item: the construcscheduled contract

at the University Plaza includes a 23-page report, but Mr Harland said the detailed con-The public part of the agenda

more than a month before the Rugby World Cup starts. Mayor Peter Chin, also speak The contract includes a hand-over date of August 1, 2011, little tract ran to 115 pages.

the meeting happen between now and ing earlier yesterday, agreed meeting would be the f meeting, or what will happen at prescience said: "There's no way decision — but with can second guess what some

would discuss commercially sensitive areas, including the allowed in. made public when the public was information as possible would be Mr Chin promised contractor's profit margin. sitive areas, The private part of the meeting