

Otago Regional Council

Proposed Otago Regional Policy Statement 2021

(excluding parts determined to be a freshwater planning instrument)

DIRECTIONS TO REDRAFT CHAPTER 15 – URBAN FORM AND DEVELOPMENT

[Minute 7]

INTRODUCTION

1. In the week 3 hearings on Ch 15 as to Urban Form and Development (UFD) numerous amendments were proposed, both through the s.42A report and two sets of supplementary evidence by another s.42A writer, and in evidence from submitters. A thorough submission proposing a suite of redrafted objectives and policies was proposed by Emily McEwan, planner with Dunedin City Council (DCC). Numerous other submitters through their evidence also continued to propose changes notwithstanding the s.42A report and supplementary evidence.
2. In addition a number of submitters particularly led by Ms Wharfe for Horticulture NZ have pressed for Rural issues to be dealt with in a separate Rural Chapter given that the Otago region is a heavily predominant rural area.
3. The complexity of preparing an introductory presentation by ORC at the hearing was not assisted by the fact that after the s.42A report was prepared, the National Policy Statement – Highly Productive Land (NPS HPL) as to management of highly productive land came into force. The legal position is that the pORPS must be amended to be consistent with that NPS.
4. There has also been a change in personnel reporting to the Panel on the UFD issues. Kyle Balderston drafted the initial RPS chapter and the s. 42A report, but then he happened to leave the ORC and moved to employment in Auckland. The supplementary evidence was provided by planning consultant Elizabeth (Liz) White, who provides continuity as she is now also tasked with the role of replying to submitter evidence as part of the ORC final reply. While both report writers attended the hearings, understandably Liz White carried the main role of response by ORC.
5. Finally, at the hearing counsel for ORC on this issue, Mr. Simon Anderson, provided submissions on the consistency or otherwise of some of the Ch 15 provisions with the NPS HPL. In respect of a number of provisions his advice will require more amendments to be worked into the proposed ORPS by Liz White in her s.42A role of providing a final reply.
6. The evidence by Ms McEwan for DCC contained a track change version of all the changes made to the notified version in the s.42A report, and two sets of supplementary evidence. The various additions and deletions involved in that process took a full page to describe as to text treatment in a tracked form, and the result was a well-nigh unreadable tracked version of all those changes. And yet as a result of the NPS HPL, even more track changes are now needed. In addition Liz White may well consider she wishes to recommend some further changes having heard the exchanges at the hearing. Those changes that she will be needing to consider may involve a potential Rural Chapter, or be limited to changes to the current UFD Chapter 15.

7. Given that unusual background, Mr Michael Garbett counsel for DCC discussed with ORC's advisers the possibility of any redraft process occurring before the ORC final reply, so that submitters have an opportunity to respond before the Council's final reply. He formally made a request to that effect to the Panel on 14 February, 2023.
8. The Panel shared the view that consideration of the options of a rural chapter and/or a redraft of Ch 15 was required. In either case that would involve significant changes. Given that potential the Panel considered fairness requires the submitters to have opportunity of a response in sufficient time to ensure that the ORC in its final reply has full opportunity of an informative reply to the Panel.
9. The Panel considers its deliberations on these issues would be assisted immeasurably by whatever redrafts flow from Ms White's reconsideration of Ch.15 and/or a new Rural Chapter, given all the various factors outlined above. The ORC advisers confirmed they could work with such a process. The complication is how the tracking should be done to avoid the confusing tracked outcome portrayed so graphically in Ms McEwan's evidence.
10. The ORC has helpfully provided a track change version of all its recommendations as at 31 October 2022. Submitters have had access to both the notified version and that version dated 22 October 2022 containing the ORC recommended record of track changes to the notified version.
11. We request that Ms. White now only shows track changes to the 31 October version, i.e. that she 'accepts' the 31 October 2022 version as a 'clean' base version, and then shows one set of track changes to that 'clean' version.
12. The panel is aware of the likelihood that similar issues may be traversed in relation to some other chapters. That is particularly possible in the LF chapter which is not due to be considered until the week of 26 April. This procedure in relation to Ch 15 is intended to be informative to the panel and does not indicate any predetermination of these issues.
13. A timetable direction is again needed. The Panel fixes the date for Ms White's rewrite of Ch 15 issues by the end of March, 2023. Interested submitters are then to have until 5 p.m. on Friday 21 April to respond, (which takes into account the fact of Easter falling within that response period.)
14. The ORC final reply on Ch. 15 responses by submitters is expected as part of the ORC closing.
15. This Minute is to be lodged on the ORC website and copies emailed to all those submitters involved in the hearing process.

Dated 16 February 2023

Ron Crosby

Panel Chair